

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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THE HONORABLE STEPHEN V. WILSON, U.S. DISTRICT JUDGE PRESIDING

ARUTYUN DEMIRCHYAN,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. CV 08-3452-SVW
	)	
	)	
ALBERTO R. GONZALEZ,	)	
	)	
	)	
Respondent.	)	
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA

WEDNESDAY, OCTOBER 24, 2012

**EVIDENTIARY HEARING**

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DEBORAH K. GACKLE, CSR, RPR  
United States Courthouse  
312 North Spring Street, Room 402A  
Los Angeles, California 90012  
(213) 620-1149

**APPEARANCES OF COUNSEL:**

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ALSO PRESENT: JILLIAN WOODS, ICE SENIOR ATTORNEY

- - - - -

I N D E XPETITIONER'S WITNESSES:          DIRECT          CROSS          REDIRECT          RECROSS

DEMIRCHYAN, ARUTYAN		9	34	
DEMIRCHYAN, SUSANNA		43	60	
GUYUMJYAN, ASATUR		89	110	
HOVANISYAN, ZARA		118	128	

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E X H I B I T SPETITIONER'SRECEIVED

109	133
130	142
1 - 6	145

RESPONDENT'SRECEIVED

2	21
3	44

1           **LOS ANGELES, CALIFORNIA; WEDNESDAY, OCTOBER 24, 2012;**

2                           **9:45 A.M.**

3                           - - - - -

4  
5                   THE CLERK:   Item 1, CV 08-3452-SVW, Arutyan  
6           Demirchyan v. Alberto R. Gonzalez.

7                   Counsel, please state your appearances.

8                   MS. CHEN:   Good morning, Your Honor.   Carol Chen for  
9           the respondent.   Also present at counsel's table is ICE Senior  
10          Attorney Jillian Woods.

11                  MR. KURZBAN:   Good morning, Your Honor.   Ira Kurzban  
12          and Geoffrey Hoffman for the plaintiff, Mr. Demirchyan.

13                  THE COURT:   All right.   This is the time for further  
14          hearing in this matter.   The court issued a minute order on  
15          October 18th which outlines the nature of the proceedings.

16                  So the plaintiff -- the petitioner has augmented the  
17          record, and do you wish to cross-examine -- Paul, do you have a  
18          schedule?

19                  Ms. Chen, do you wish to cross-examine?

20                  MS. CHEN:   I do, Your Honor.

21                  THE COURT:   Which witness do you wish to examine  
22          first?

23                  MS. CHEN:   I believe, Your Honor, the petitioner  
24          himself.

25                  THE COURT:   All right.

1 MS. CHEN: And, Your Honor, I believe the parties  
2 agree that all the other witnesses should be excluded for  
3 this --

4 THE COURT: All right. Anyone who is going to be a  
5 witness in the case should leave the courtroom and remain in  
6 the witness room across the hall.

7 MS. CHEN: Your Honor, should the petitioner take the  
8 stand?

9 THE COURT: Yes.

10 MS. CHEN: Thanks, Your Honor.

11 THE CLERK: Please step forward. Stand behind the  
12 court reporter. Raise your right hand.

13 (Witness sworn)

14 THE WITNESS: I do.

15 THE CLERK: Please be seated.

16 MR. HOFFMAN: Your Honor, we have an objection at  
17 this point.

18 THE COURT: What was that?

19 MR. HOFFMAN: Our understanding is that we would be  
20 doing a direct examination, and then Ms. Chen would get a  
21 chance to cross-examine.

22 THE COURT: The procedure is, in a court proceeding,  
23 that the declaration is the direct examination, and then you're  
24 allowed to redirect following cross-examination.

25 MR. HOFFMAN: Yes, Your Honor.

1 THE CLERK: Please state your full name and spell it  
2 for the record.

3 THE WITNESS: Arutyun Demirchyan, A-r-u-t-y-u-n, last  
4 name, Demirchyan, D-e-m-i-r-c-h-y-a-n.

5 MS. CHEN: Your Honor, since his declaration will be  
6 his direct, may I approach the clerk to give two copies, one to  
7 the court and one to the witness?

8 THE COURT: Yes.

9 MS. CHEN: Thank you, Your Honor.

10 THE CLERK: Exhibit A placed before the witness.

11 MS. CHEN: Your Honor, may I begin?

12 THE COURT: Yes, please.

13 MS. CHEN: Thank you, Your Honor.

14 **ARUTYUN DERMIRCHYAN; PETITIONER'S WITNESS, SWORN, TESTIFIED:**

15 **DIRECT EXAMINATION BY DECLARATION**

16 **CROSS-EXAMINATION**

17 BY MS. CHEN:

18 Q. Mr. Demirchyan, I'm going to ask you to look at the  
19 document that was placed before you.

20 Do you recognize it?

21 A. Yes, it's my affidavit.

22 Q. I'm going to ask you specifically to turn to the last  
23 page. And do you recognize, sir, that signature as being  
24 yours?

25 A. Yes, ma'am.

1 Q. And did you sign that after reviewing the entirety of this  
2 document?

3 A. Yes, ma'am.

4 Q. All 33 paragraphs, correct?

5 A. That's correct.

6 Q. Including paragraph 33 which says, "You are declaring  
7 under penalty of perjury"?

8 A. That is correct.

9 Q. Let me ask you to turn first to paragraph 16 of that  
10 document. Please let me know when you are there.

11 THE COURT: The declarations should be perhaps  
12 referred to by exhibit numbers. So I'll call his -- Arutyun  
13 Demirchyan's Declaration Exhibit 1.

14 MS. CHEN: Thank you, Your Honor.

15 BY MS. CHEN:

16 Q. Mr. Demirchyan, do you see paragraph 16 of Exhibit 1?

17 A. Yes, ma'am.

18 Q. And in that paragraph, you state that Asatur Guyumjyan --  
19 for the court reporter, the name is spelled A-s-a-t-u-r, first  
20 name, last name is G-u-y-u-m-j-y-a-n.

21 Sir, you declare in paragraph 16 that that individual  
22 obtained a 1997 birth certificate for you after being sent a  
23 power of attorney.

24 Do you see that?

25 A. Yes, ma'am.

1 Q. And does Mr. -- is that a male?

2 A. Yes, ma'am.

3 Q. Does Mr. Guyumjyan go by any other name?

4 A. I don't think so.

5 Q. And, sir, you state that he was a neighbor, correct?

6 A. He was an old neighbor, yes.

7 Q. In Armenia?

8 A. Yes.

9 Q. He is not a relative?

10 A. No, he is not.

11 Q. Did you recall your deposition being taken in this case?

12 THE COURT: When?

13 MS. CHEN: Yes, Your Honor.

14 Q. Do you remember your deposition being taken on May 12th,  
15 2009?

16 A. I don't remember the exact date, but sometime around 2009  
17 there was a deposition, yes.

18 Q. You remember coming to my office, there was a court  
19 reporter?

20 A. Yes, I remember.

21 MS. CHEN: And, for the record, Your Honor, I believe  
22 the entirety of that deposition transcript was admitted into  
23 evidence at the prior evidentiary hearing.

24 THE COURT: All right.

25



1 BY MS. CHEN:

2 Q. Sir, do you remember that during that deposition, you  
3 stated that a cousin, Hovaans Khahyan -- and again for the  
4 court reporter, spelled, first name, H-o-v-a-a-n-s, last name,  
5 K-h-a-h-y-a-n -- was the individual who picked up the birth  
6 certificate?

7 MR. KURZBAN: Your Honor, may we have the page and  
8 what she is referring to?

9 MR. HOFFMAN: Deposition.

10 THE COURT: Do you have --

11 MS. CHEN: I do, Your Honor. Pages 143 to 144.

12 And, Your Honor, may I, at this time, approach the  
13 court clerk to give copies of the deposition transcript?

14 THE COURT: Yes.

15 Why do you have to approach him? Why can't you just  
16 read the part?

17 MS. CHEN: Sure, I can, Your Honor.

18 THE COURT: Yes. Page and line number.

19 MS. CHEN: Yes, Your Honor.

20 For the record, will be pages 143, line 12, to page  
21 144, line three, and it reads as follows:

22 *"Question: But you eventually did get a birth*  
23 *Certificate in 1997, but you believe that was from*  
24 *Another request by your mom to get the birth*  
25 *Certificate rather than from this attempt in 1992?*

1           *"Answer: My mom made several requests. That's*  
2           *Correct.*

3           *"Question: And this person who brought it, can you*  
4           *describe this person for me?*

5           *"Answer: Well, the person just -- just -- he was*  
6           *just a carrier. He just carried it from the airport*  
7           *to LAX and to give it to somebody, to give to my mom,*  
8           *To her friend, that that person did not go pick it up*  
9           *At the government office. My cousin did.*

10          *"Question: Who is your cousin?*

11          *"Hovaans, H-o-v-a-a-n-s, Khahyan, K-h-a-h-y-a-n.*

12          *"Question: So it is your understanding your cousin*  
13          *Picked it up from the government building?*

14          *"Answer: Yes."*

15          MR. KURZBAN: Your Honor, I object. It's not  
16          impeachment.

17          THE COURT: I think it may be, so your objection is  
18          overruled.

19          BY MS. CHEN:

20          Q. Sir, do you recall that in yet another document you signed  
21          under penalty of perjury you stated that a neighbor by the name  
22          of Lucy had faxed you the 1997 birth certificate?

23          A. I don't understand the question.

24          Q. Do you recall, sir, ever stating, under a penalty of  
25          perjury, that another individual, not Asatur Guyumjyan, not

1 Hovaans Khahyan, had, in fact, brought the 1997 birth  
2 certificate to you?

3 A. I don't recall.

4 MS. CHEN: Your Honor, may I approach the clerk to  
5 provide documents to refresh -- provide two documents to  
6 provide the witness's --

7 THE COURT: What are they?

8 MS. CHEN: There are interrogatories as well as the  
9 petitioner's own responses which were --

10 THE COURT: Why don't you just read those? I mean --

11 MS. CHEN: I can, Your Honor.

12 THE COURT: Now, the question regarding these  
13 interrogatories, in his answers -- you're first questioning  
14 about them, and then offering them as exhibits in evidence?

15 MS. CHEN: I was going to refresh his recollection,  
16 but I can -- I can --

17 THE COURT: Do you want to refresh his recollection  
18 first? Is that what you're --

19 MS. CHEN: Yes, Your Honor. But either -- whatever  
20 the court would like for me to do, Your Honor.

21 THE COURT: I'm not trying this matter, so you have  
22 to proceed, and I'll rule.

23 MS. CHEN: Yes, Your Honor.

24 Q. Just to clarify, Mr. Demirchyan, you were once represented  
25 by Mr. Rosenberg, James Rosenberg; is that correct?

1 A. That's correct.

2 Q. Do you recall during the litigation of this case that the  
3 United States propounded what were called "interrogatories" to  
4 you, they were questions to be answered by you?

5 A. I don't remember.

6 Q. Do you recall signing what is called a "verification,"  
7 saying that you had read the responses which were subsequently  
8 given to the government, that you knew the contents to be true  
9 and correct?

10 A. May I see it?

11 MS. CHEN: Your Honor, may I approach?

12 THE COURT: Yes. And what you're showing him should  
13 be marked for identification. Let's say this is Exhibit 2.  
14 What is the date of the interrogatories?

15 MS. CHEN: Your Honor, the actual set of  
16 interrogatories is dated December 22nd, 2008. And the  
17 petitioner's responses, verified responses, signed under  
18 penalty of perjury, is dated January 26, 2009.

19 THE COURT: And these interrogatories and answers  
20 have not been filed with the court, correct?

21 MS. CHEN: That's correct, Your Honor.

22 THE COURT: All right.

23 The interrogatory and the response is Exhibit 2.

24 BY MS. CHEN:

25 Q. Mr. Demirchyan, may I ask you to first turn to the

1 document entitled, on the first page, "Respondent's First Set  
2 of Interrogatories," which again is marked for identification  
3 as Exhibit 2.

4 A. I'm looking at it.

5 Q. Do you see that, sir?

6 A. Yes, ma'am.

7 Q. I'm going to ask you to turn to page five, and  
8 specifically what is marked as interrogatory No. 19.

9 A. Yes, ma'am.

10 Q. And I'm going to ask you just to read along with me.  
11 Please read along with me.

12 *"Please list and describe what information and*  
13 *Documents you or someone on your behalf provided*  
14 *Armenian authorities in order to register your birth*  
15 *For the birth certificate purported to have been*  
16 *Registered on July 30th, 1997[sic] and issued on*  
17 *November 23rd, 2000, registration No. 9725; the*  
18 *Birth certificate purported to have been issued on*  
19 *July 23rd, 1988, registration No. 4-12697; the birth*  
20 *Certificate purported to have been registered on*  
21 *April 29th, 1997, registration No. 975; and the*  
22 *Birth certificate purported to have been issued on*  
23 *December 23rd, 2000, registration No. 1775."*

24 Do you see that, sir?

25 A. Yes, I see it.

1 MR. HOFFMAN: Your Honor, objection to the reading.  
2 Ms. Chen misstated. She said 1997. I believe she meant 1977.  
3 July 30th, 1977.

4 MS. CHEN: Your Honor, if I stated that, my  
5 apologies, it is 1977.

6 THE COURT: All right. Then with that correction,  
7 you can proceed.

8 BY MS. CHEN:

9 Q. Mr. Demirchyan, do you see the one that says -- the third  
10 one that says, "The birth certificate purported to have been  
11 registered on April 29th, 1997, registration No. 975"?

12 A. Yes, I see it.

13 Q. And is it your understanding that that is what you are  
14 attempting to introduce into evidence today as a birth  
15 certificate that you had -- you or your mom had obtained in  
16 1997?

17 A. Yes, ma'am.

18 Q. And it purportedly evidences a 1977 birth certificate --  
19 birth year, correct?

20 A. That is correct.

21 Q. I'm going to ask you now to turn to the document that's  
22 entitled "Petitioner's Responses to First Set of  
23 Interrogatories," the second document that is marked for  
24 identification as Exhibit 2. And, sir, I'm going to ask you to  
25 turn to page nine.

1 A. Yes, ma'am.

2 Q. Do you see that, sir?

3 A. Yes.

4 Q. And so there is a subsection -- it says question 19 on  
5 line -- between line, I guess, 21 and 22.

6 Do you see that?

7 A. Okay. I'm on page nine, line 20 to 21?

8 Q. Yes. Just to clarify, sir, you see question -- it says  
9 question 19?

10 A. Yes, I see it.

11 Q. You see subsection a, subsection b?

12 A. Uh-huh.

13 Q. I'm going to ask you to turn to the next page, which is  
14 page ten.

15 Sir, do you see subsection c?

16 A. Yes, I see it.

17 Q. And it says, "This was faxed to us from Armenia by a woman  
18 who used to be our neighbor. Her name was Lucy and she is now  
19 deceased," correct?

20 A. That's correct. I see it.

21 Q. I'm going to ask you to turn one more page, sir. It's not  
22 numbered, but the next page --

23 MR. KURZBAN: Your Honor, I'm sorry to interrupt.

24 THE COURT: Just make an objection and give me the  
25 legal grounds.

1 MR. KURZBAN: If this is meant for impeachment --

2 THE COURT: Just -- objection, legal grounds, what  
3 are they?

4 MR. KURZBAN: Nothing else, Your Honor.

5 THE COURT: Did you make an objection?

6 MR. KURZBAN: Yes.

7 THE COURT: What was the objection?

8 MR. KURZBAN: Improper examination.

9 MR. HOFFMAN: Compound question.

10 THE COURT: Improper examination is not an objection.  
11 What are the legal grounds for the objection?

12 MR. KURZBAN: The legal grounds is that this is being  
13 used for impeachment, it's not impeachment.

14 THE COURT: Improper impeachment?

15 MR. KURZBAN: Yes, Your Honor.

16 THE COURT: Overruled.

17 Proceed.

18 MS. CHEN: Thank you, Your Honor.

19 Q. Sir, I'm going to ask you again to turn to the next page.  
20 It's unnumbered, but it should be the one after page nine.

21 A. After page nine, I have page ten.

22 Q. I'm sorry. You are right. The page after page ten. I  
23 apologize.

24 THE COURT: Is that page 11?

25 MS. CHEN: It's actually unnumbered, Your Honor, but



1 it is the page after page ten.

2 THE COURT: Is that the way it's reflected in the  
3 document?

4 MS. CHEN: It is, Your Honor.

5 THE COURT: An unnumbered page following page ten.  
6 And what's the next numbered page?

7 MS. CHEN: There is actually the next -- there is no  
8 next numbered page, Your Honor. After that is a Proof of  
9 Service that is also unnumbered.

10 THE COURT: So for identification purposes, what is  
11 the first line on that unnumbered page?

12 MS. CHEN: It says "VERIFICATION" in bold caps.

13 THE COURT: All right.

14 BY MS. CHEN:

15 Q. Mr. Demirchyan, are you on that same page?

16 A. Yes, ma'am.

17 Q. And, Mr. Demirchyan, do you see that -- do you recognize  
18 that signature on that page?

19 A. Yes, ma'am.

20 Q. Is that your signature?

21 A. Yes, ma'am.

22 Q. And do you see that it states, above that signature, that  
23 you are the petitioner?

24 A. That is correct.

25 Q. It also states that you have read the foregoing responses

1 to the first --

2 A. Yes, ma'am.

3 Q. And you know its contents to be true and correct?

4 A. Yes, ma'am.

5 Q. Do you recognize this document then?

6 A. I don't remember the document specifically, that's what  
7 you're asking me, but it's my signature on the document.

8 MS. CHEN: Your Honor, at this time the government  
9 does move to admit into evidence the two documents marked for  
10 identification as Exhibit 2.

11 THE COURT: You mean the interrogatory and the  
12 responses?

13 MS. CHEN: Correct, Your Honor.

14 THE COURT: They're received.

15 (Respondent's Exhibit 2 received in evidence.)

16 BY MS. CHEN:

17 Q. Mr. Demirchyan, I'm going to ask you to turn back to your  
18 declaration, which has been marked as Exhibit 1, and ask you  
19 specifically to --

20 THE COURT: And that declaration is dated  
21 August 22nd, 2011; is that right? Or what is the date?

22 MS. CHEN: Yes, Your Honor. I believe it was signed  
23 August 22nd, and it was filed with the court August 24th, 2011.

24 THE COURT: All right.

25 ///

1 BY MS. CHEN:

2 Q. Mr. Demirchyan, ask you to move on to paragraph 17.

3 A. Yes, ma'am.

4 Q. And in that paragraph, you describe that your mother  
5 traveled to Armenia to get the 1997 birth certificate we've  
6 just been talking about. She went there to get it  
7 authenticated, correct?

8 A. Yes, ma'am.

9 THE COURT: Went where? Where did you say the  
10 mother went?

11 MS. CHEN: Oh, I'm sorry, Your Honor.

12 Q. You stated in your -- in paragraph 17, Mr. Demirchyan,  
13 that your mother went to Armenia to get the 1997 birth  
14 certificate authenticated, correct?

15 A. Yes, ma'am.

16 Q. In your declaration, paragraph 17, which again is  
17 Exhibit 1 marked for identification, you stated it had to be, I  
18 believe, re-issued in -- with a 2000 issue date, correct?

19 A. I'm sorry? Go again.

20 Q. Sure. I'm just asking you, sir, to look at your own  
21 paragraph 17 in your declaration.

22 A. Okay.

23 Q. Correct me if my understanding is incorrect, but you state  
24 that your mother went to Armenia with the 1997 birth  
25 certificate in question, and to get it authenticated, correct?

1 A. That is correct.

2 Q. You also state in this paragraph that they re-issued it  
3 with a 2000 issue date, correct?

4 A. That is correct.

5 Q. But you actually did not go to Armenia with her on that  
6 trip, correct?

7 A. Correct.

8 Q. In fact, as you state in paragraph 17, you were already in  
9 immigration detention; is that correct?

10 A. That is correct.

11 Q. So you have no personal knowledge of the process by which  
12 she got this 1997 birth certificate re-issued with a 2000 year  
13 date; is that correct?

14 A. That is correct.

15 MS. CHEN: Your Honor, the government moves to strike  
16 paragraph 17 for lack of personal knowledge and lack of  
17 foundation.

18 THE COURT: But, I mean, why is that necessary?  
19 Can't I just receive it for its value?

20 MS. CHEN: Yes, Your Honor.

21 THE COURT: It's not necessary to strike it; I can  
22 consider it in context.

23 MS. CHEN: Yes, Your Honor.

24 Q. Mr. Demirchyan, I'm going to ask you now to turn to  
25 paragraph 32 of your declaration, which is the last page which

1 also is unnumbered, but I believe it's page seven of seven on  
2 top.

3 A. Thirty-two?

4 Q. Yes, sir.

5 A. Okay. I'm here.

6 Q. You state in that paragraph, sir, that at all times in  
7 your life, you've known that you were born in 1977, correct?

8 A. That's correct.

9 Q. That understanding is based on what other people have told  
10 you, correct?

11 A. That is correct.

12 Q. And you state also in this paragraph that, "Growing up  
13 Armenia I was in the correct grade for that year of birth."

14 Again, that is based on what other people have told  
15 you, correct?

16 A. Yes, my teachers and all, yes.

17 Q. Do you also recall, sir, that when I asked you in your  
18 deposition what grade you were when you left Armenia, you  
19 stated that you didn't remember?

20 A. I don't remember.

21 Q. Do you remember that you stated, in fact, asking you what  
22 grade you were in when you left Armenia in 1998, it was similar  
23 to asking you what you had to eat for that day? Do you  
24 remember saying that?

25 MR. KURZBAN: Objection, Your Honor.

1 THE DEFENDANT: I don't remember.

2 MR. KURZBAN: Improper impeachment. We have to know  
3 the line and part of --

4 THE COURT: Is this from the deposition?

5 MS. CHEN: Yes, Your Honor.

6 THE COURT: Give us a page and line.

7 MS. CHEN: Yes, Your Honor.

8 I'm sorry, Your Honor. May I have a moment?

9 THE COURT: Yes.

10 MS. CHEN: It would be page 75, lines 10 through 16.

11 Again, page 75, lines 10 through 16. It reads:

12 *"Question: When you left Armenia in 1988, what*  
13 *Grade were you in, do you know?*

14 *"Answer: I have no idea. It's like asking me what*  
15 *I had to eat that day. I don't know. Nothing, zero.*

16 *"Question: Really? Is that similar to what you*  
17 *Think about?*

18 *"Answer: Think about it.*

19 *"Question: As to what grade you were in?"*

20 MR. KURZBAN: Your Honor, in completeness, may she  
21 read the next -- oh, I guess Your Honor has it. I'm sorry.

22 BY MS. CHEN:

23 Q. Mr. Demirchyan, you have two perjury convictions, correct?

24 MR. HOFFMAN: Your Honor, objection. The objection  
25 is based on the rule that provides -- 609 that provides for the

1 fact that there cannot be any admission of convictions if  
2 they're more than ten years old.

3 THE COURT: Are these -- the rule says that  
4 convictions aren't useable for impeachment if they're more than  
5 ten years old unless they involve a crime involving moral  
6 turpitude and dishonesty --

7 Do these crimes, in your view, meet that category?

8 MS. CHEN: They certainly do, Your Honor.

9 THE COURT: What are the crimes?

10 MS. CHEN: Your Honor, the only two I would like to  
11 use today are the perjury, and which Mr. Demirchyan has stated  
12 under penalty of oath in a deposition, one was for using false  
13 name on a DMV application of Juan Manual Ayala.

14 THE COURT: What date was that conviction?

15 MS. CHEN: Your Honor, if I may have a moment?

16 THE COURT: Yes.

17 MR. HOFFMAN: Your Honor, if I may respond just to  
18 clarify?

19 THE COURT: Let her first give me the information.

20 MR. HOFFMAN: Yes, sir.

21 MS. CHEN: Your Honor, I believe the two perjury  
22 convictions were previously in the government's trial exhibit  
23 binder 18 and 19, and they both are from 1998, Your Honor.

24 THE COURT: What is the objection? Counsel, what is  
25 the objection?

1 MR. HOFFMAN: Your Honor, these do not -- should not  
2 be admitted, Your Honor, because 609(b) specifically requires  
3 that if they are more than ten years old, the court must  
4 determine the probative value of the conviction supported by  
5 specific facts and circumstances substantially outweighs its  
6 prejudicial effect.

7 THE COURT: I find that if there is a conviction for  
8 perjury, which is lying under oath, there couldn't be any type  
9 of conviction more pertinent to impeach. So the objection is  
10 overruled.

11 Proceed.

12 MS. CHEN: Thank you, Your Honor.

13 Q. Mr. Demirchyan, you've been convicted of perjury twice,  
14 correct?

15 A. Yes.

16 Q. Including for lying about your age?

17 A. Yes.

18 Q. And also for -- specifically for lying about your age on a  
19 DMV application to get a fake I.D. card; is that correct?

20 A. Yes.

21 Q. Also for lying about how many different names or aliases  
22 you have used on a DMV application; is that correct?

23 A. That's correct.

24 Q. I'm going to ask you now to turn to, once again, your  
25 declaration, sir, starting -- the paragraphs I want to talk



1 about are paragraphs six through 12, but you can just first  
2 turn to page -- paragraph six.

3 A. I don't have paragraph six on this copy.

4 Q. Sir, just to clarify, this is your own declaration which  
5 is marked for identification as Exhibit 1, and again, it's the  
6 August 22nd, 2011 declaration.

7 You do not have a paragraph six?

8 A. No, I don't.

9 Q. The top of the page should read, "The scrivener's error on  
10 the copy of my birth certificate."

11 THE CLERK: Paragraph six placed before the witness.

12 THE WITNESS: Okay. I have it, Your Honor.

13 BY MS. CHEN:

14 Q. Sir, I'm going to briefly ask you to just look at that  
15 first -- at the top of that page. It says, "The scrivener's  
16 error on the copy of my birth certificate."

17 Do you see that?

18 A. Yes.

19 Q. And paragraphs six through 12 of your declaration, is it  
20 fair to say that those paragraphs describe what you call the  
21 process by which you came from Armenia to United States and  
22 this scrivener's error you talk about?

23 A. If you have a moment, I could read it.

24 MS. CHEN: Of course.

25 MR. KURZBAN: Your Honor, may I? I'm going to object

1 to the scope of this. My understanding of this hearing --

2 THE COURT: What is the objection, to the scope of  
3 the examination?

4 MR. KURZBAN: Yes, and if I may --

5 THE COURT: Overruled.

6 THE WITNESS: Yes, ma'am.

7 BY MS. CHEN:

8 Q. Sir, now having reviewed paragraphs six through 12 for the  
9 record, is it your understanding those paragraphs describe the  
10 process by which you and your family came from Armenia to the  
11 United States?

12 A. Yes.

13 Q. And it's labeled, "Scrivener's error on the copy of my  
14 birth certificate," correct?

15 A. That is correct.

16 Q. I'm going to ask you to look at specifically paragraph  
17 eight, sir.

18 A. Yes.

19 Q. Let me ask -- I'm going to direct you to the second  
20 sentence. It says, "I still recall all nine of us going to a  
21 typist to help type up copies of these translations."

22 Do you see that?

23 A. Yes, ma'am.

24 Q. Did any of you actually help type up those copies?

25 A. No, we did not help. No.

1 Q. How long did the process of typing up the copies take?

2 A. I don't know.

3 Q. Was it days?

4 A. What I've heard and what I know, several times.

5 Q. I'm sorry. Did it take one day or did it take more than  
6 one day?

7 A. Several days.

8 Q. And were you there -- were you present on all those days  
9 when it was being typed up?

10 A. Not all those days.

11 Q. Did you -- I'm sorry, sir.

12 Did you at any point watch this person type up any of  
13 the documents?

14 A. Yes, I remember when I was a kid, I saw the person typing.

15 Q. And you -- it's your position that out of all nine of you,  
16 none of you looked at the papers to make sure that there were  
17 any -- there were no mistakes, correct?

18 A. I don't understand the question, ma'am.

19 Q. Sure. Is it your understanding that nobody in your family  
20 caught this mistake until you got to Moscow?

21 THE COURT: That's what the declaration says, isn't  
22 it?

23 MS. CHEN: Yes, Your Honor.

24 THE COURT: So why -- I mean, you can question him  
25 about the circumstances of the document being prepared. He's

1 testified to that, and you've asked him some questions. But he  
2 stated that's what happened.

3 MS. CHEN: Thank you, Your Honor. Yes, Your Honor.

4 Q. During -- you just stated, sir, under oath that you  
5 remember seeing a person type up some of these documents,  
6 correct?

7 A. I stated, yes.

8 Q. Do you recall on pages 72 to 77 of your deposition, do you  
9 recall during that deposition you stated that you didn't  
10 remember the process very well, that you didn't remember seeing  
11 anybody typing up the papers?

12 A. When?

13 Q. I'm going to read -- direct your -- I'm going to, for the  
14 record, deposition again of May 12th, 2009, which was taken  
15 under penalty of perjury, specifically page 88, line five to  
16 line eight:

17 *"Question: Sitting here actually, you don't remember*  
18 *the process that was involved. In other words, you*  
19 *Don't recall seeing a Bob or somebody typing this up,*  
20 *Do you?*

21 *"Answer: No."*

22 Mr. Demirchyan, in fact, during the deposition, you  
23 admitted that your belief that a mistake had occurred during  
24 the typing process, that was based on what other people had  
25 told you, correct?

1 A. Part of it.

2 Q. Your deposition, page 88, the following line, nine through  
3 11:

4 *"Question: Were you piecing it -- but you're*  
5 *Piecing it together based on what you've asked other*  
6 *People?*

7 *"Answer: Exactly."*

8 A. Is that a question?

9 Q. Sir, I'm going to ask you to look at the binder in front  
10 of you.

11 A. Okay.

12 THE COURT: Is that -- is it agreed that's what the  
13 deposition says?

14 MS. CHEN: Yes, Your Honor. I read it from the  
15 deposition transcript. I'm happy to give a copy --

16 THE COURT: Well, if it's agreed that that's what the  
17 deposition says, then it's admissible.

18 MS. CHEN: Yes, Your Honor.

19 Q. Sir, I'm going to ask you, do you see the black binder in  
20 front of you?

21 A. Yes, ma'am.

22 Q. Before I ask you to turn to anything in that binder,  
23 you're aware that all of your family's entry papers -- or let  
24 me be more specific.

25 You're aware that your own entry papers all list the

1 birth year of 1976, correct?

2 A. I'm sorry? I don't understand the question.

3 THE COURT: It's not helpful to me. I've outlined  
4 what I concluded was required given the 9th Circuit order in  
5 the prior proceedings, and you're using this witness to sort of  
6 argue your whole case. So that's not helpful to me.

7 MS. CHEN: Yes, Your Honor.

8 THE COURT: I have to make some specific findings  
9 regarding this 1997 birth certificate and that's what is most  
10 critically before me. So unless you have something that  
11 specifically relates to that, I would like you to conclude your  
12 examination.

13 MS. CHEN: Yes, Your Honor. Your Honor, my  
14 understanding is petitioner's exhibit list, 110 and 111, I  
15 believe are from a U.S. passport. I would like to just ask one  
16 or two questions of petitioner regarding that.

17 THE COURT: What are these exhibits?

18 MS. CHEN: I believe it's petitioner's exhibit list,  
19 Your Honor. 110 and 111 are pages from a U.S. passport that he  
20 was issued after the initiation of removal proceedings. My  
21 understanding is also they were revoked. He was asked about it  
22 in deposition.

23 THE COURT: What is the significance of it?

24 MS. CHEN: The point the government is trying to make  
25 is that he applied for them after the proceedings were

1 initiated against him and they were, in fact, revoked. They  
2 are trying to introduce it into evidence apparently.

3 THE COURT: But what is the significance of it? I'm  
4 focused on the 1997 birth certificate. What is the  
5 significance or relevance of what you're trying to introduce?

6 MS. CHEN: There's no significance in the  
7 government's mind, Your Honor.

8 THE COURT: Well, then let's pass on it.

9 MS. CHEN: Yes, Your Honor. The government has no  
10 further questions, Your Honor.

11 THE COURT: All right. Redirect.

12 Redirect should only encompass matters that were  
13 raised on cross-examination.

14 **REDIRECT EXAMINATION**

15 BY MR. KURZBAN

16 Q. Mr. Demirchyan, I'd like you to take a look at  
17 Exhibit 109. It's not in the book, it's in the separate  
18 documents that we filed today.

19 THE COURT: Now, Exhibit 9, then, should be an  
20 Exhibit 9 in these proceedings too, correct?

21 MR. KURZBAN: I'm sorry, Your Honor. I said 109.

22 THE COURT: Oh, 109. Then 109 will be as it is  
23 received in this proceeding.

24 MR. KURZBAN: Yes. And it's the 1997 birth  
25 certificate.

1 THE COURT: Okay. Well, then, that's the certificate  
2 at issue, and whether it is received will require some probing.  
3 So it will be marked for identification, Exhibit 109.

4 MR. KURZBAN: Thank you, Your Honor.

5 Q. Mr. Demirchyan, Ms. Chen asked you about the manner in  
6 which this document was obtained, and I think the point was  
7 that there may have been some inconsistency between who  
8 obtained it and how it was brought to the United States.

9 I would like you to explain to the court, to the best  
10 of your knowledge, what happened with respect to this document.  
11 That is, No. 1, who obtained the document?

12 THE COURT: You know something, if it's going to be  
13 helpful to me, that type of question doesn't really enable me  
14 to make the finding that I have to because the question  
15 inherently doesn't call for a foundation. And what he may have  
16 heard or learned or discussed with others is not helpful to me.  
17 It's what he can testify to regarding what he saw, what he  
18 heard and so forth. So the form of the question is unhelpful.

19 MR. KURZBAN: I'm sorry, Your Honor.

20 Q. Okay. Mr. Demirchyan, have you ever seen this document  
21 before?

22 A. Yes, I have.

23 Q. Did you ever have possession of the original of that  
24 document?

25 A. Yes, I have.



1 Q. Okay. When did you have possession of the original of  
2 that document?

3 A. In 1997.

4 Q. And how did you get possession of that document?

5 A. My mother gave it to me.

6 Q. Okay. And to your knowledge, where did your mother get  
7 it?

8 A. From --

9 THE COURT: I mean, you're doing that again. To your  
10 knowledge, where did she get it? I mean, that's not something  
11 that is helpful to me.

12 MR. KURZBAN: I understand --

13 THE COURT: Don't ask questions like that because I  
14 have to make an important determination here, and you're just  
15 garbling things up. So ask better questions, sir.

16 MR. KURZBAN: Okay. Sorry, Your Honor.

17 Q. When you issued that document, what did you do with the  
18 document?

19 A. I attempted to correct my birth date.

20 Q. And how did you attempt to correct it?

21 A. First I went to the DMV and I showed it to them, and the  
22 DMV had told me that you need to go -- you need to have  
23 something on immigration document, you need to go to  
24 immigration first.

25 Q. Okay. After you got that information from DMV, what did

1 you do with the document?

2 A. I went to the Los Angeles immigration office, and I took  
3 my mother along with me. And after a number was called, we  
4 approached the gentleman, I presented this document, and at  
5 that time he said he doesn't accept anything here. If I were  
6 to -- he give me an address with the blue form --

7 MS. CHEN: Objection, Your Honor, hearsay.

8 THE COURT: That's not hearsay. I mean he can  
9 testify as to what someone told him. It's not being offered  
10 for the truth, it's just being offered for the fact that it was  
11 said.

12 Overruled. Proceed.

13 BY MR. KURZBAN

14 Q. Continue, Mr. Demirchyan.

15 A. So he had given me an address with a blue form and an  
16 address on it, and I have asked him to -- I need to send this  
17 to this address. We don't accept documents here.

18 Q. Okay. And what action did you take?

19 A. I took the document, sometime in 1997, right after that,  
20 and I sent a copy to INS, the address the INS worker had given  
21 me at that time.

22 Q. And what did you do with the original of the document?

23 A. The original of the document, it was at my house.

24 Q. Okay. And when was the next time you saw that document?

25 A. Next time I saw the document was in 2000. Proceedings

1 against me in immigration courts in Arizona. In 2000,  
2 immigration proceedings in Arizona in the courtroom.

3 Q. How did that document get into the proceedings in Arizona?

4 A. The original document?

5 Q. Yes.

6 A. It was brought by my mother and given to my attorney at  
7 the time.

8 Q. Who was your attorney at the time?

9 THE COURT: How is he -- what's the foundation for  
10 this? You're doing the same thing again. I mean, did he --  
11 did his mother tell him she got it from the attorney, did she  
12 give it to the attorney, was he there? It helps me to know how  
13 these things happen so I can make a proper assessment.

14 BY MR. KURZBAN

15 Q. Okay. With respect to the document being brought to  
16 Arizona, did you give any instructions to your mother about the  
17 document?

18 A. I had told her when I was in proceedings, over the phone,  
19 that my attorney asked for this document. It's sitting -- it's  
20 in a certain place in my house at the time, if she could reach  
21 it for me.

22 Q. Okay. And did you ask your mother to get that document?

23 A. Yes, I did.

24 Q. And did you ask her to bring it to Arizona?

25 A. Yes, I did.

1 Q. And did she do that?

2 A. Yes, she did.

3 Q. Okay. And did you ask her to give it to your attorney?

4 A. Yes, I did.

5 Q. At the time of -- while you were incarcerated, did you  
6 ever speak with your attorney?

7 A. Yes, I did.

8 Q. Did you learn from your conversations that he obtained the  
9 original document from your mother?

10 A. Yes, he did.

11 Q. Okay. Are you aware or did you give him any instructions  
12 as to what he should do with that document?

13 A. Other than show to the court, give it to the judge, no.

14 Q. Okay. Now, you were in a court proceeding when that  
15 document appeared, correct?

16 A. That's correct.

17 Q. Can you explain to Judge Wilson what happened in the  
18 course of that proceeding.

19 THE COURT: I take it that there's no transcript of  
20 that hearing?

21 MR. KURZBAN: There is a transcript.

22 THE COURT: Then why should I hear his description of  
23 what happened and why shouldn't I be focused on what actually  
24 did happen?

25 MR. KURZBAN: May I have a moment, Your Honor?

1 THE COURT: Yes.

2 MR. KURZBAN: Apparently, Your Honor, we had  
3 submitted it to Your Honor.

4 THE COURT: You can reference it and argue from it at  
5 the appropriate time. His general description of what happened  
6 is not helpful.

7 MR. KURZBAN: Okay.

8 Q. Subsequent to the hearing, do you know if your mother --  
9 did you have any discussions with your mother about what to do  
10 with the original document?

11 A. I'm sorry. I don't understand the question.

12 Q. During the course of the hearing, and subsequent to the  
13 hearing, do you know what happened to that document?

14 A. Yes. My mother -- the judge extracted my mother's ticket  
15 to Armenia to have it authenticated.

16 Q. And did your mother take it to Armenia?

17 A. Yes, she did.

18 Q. And do you know what happened in Armenia?

19 A. What I've heard. I don't know exactly what happened.

20 MR. KURZBAN: Your Honor, we'll bring in other  
21 witnesses with respect to that.

22 I'm sorry, Your Honor. Okay.

23 Q. Again, Ms. Chen had asked you, and I'd like you to turn  
24 again to Interrogatory No. 19, which is on page nine. Your  
25 answer to Interrogatory No. 19 on page nine of the document

1 marked "Petitioner's Responses to First Set of  
2 Interrogatories."

3 Can you look at that?

4 A. Yes.

5 Q. And there is an a, b, and then on the next page, at page  
6 ten, there is a c and d.

7 A. That is correct.

8 Q. Were you referring to the 1997 birth certificate or a  
9 different birth certificate there, or to the 2000 birth  
10 certificate?

11 A. The 2000 birth certificate.

12 Q. Just one other matter.

13 Ms. Chen asked you and impeached you on the issue of  
14 who actually obtained this birth certificate.

15 Were you aware of who obtained the 1997 birth  
16 certificate?

17 A. Yes, I was aware.

18 Q. And who was that person?

19 A. It's two persons actually.

20 Q. Okay. Can you explain what you mean.

21 A. She had told our neighbor Asatur to retrieve this document  
22 from the Armenian -- whatever -- the city hall, whatever, to  
23 get it from.

24 Q. And who was that? What is his name?

25 A. Asatur Guyumjyan.

1 Q. Okay. Can you spell it for the court reporter, please.

2 A. A-s-a-t-u-r, and then the last name, I believe, is  
3 G-y-u-m-j-y-a-n[sic].

4 Q. Okay. Go ahead. Continue.

5 A. I believe that Asatur has retrieved the actual document,  
6 and my cousin, Hovhanness, had assisted him by bringing the  
7 document, sending a document to the United States.

8 Q. Okay. So when you said in your deposition that your  
9 cousin had assisted you or obtained it, what exactly were you  
10 referring to?

11 A. I was referring to that he went with Asatur -- along with  
12 Asatur had sent a document to my mother because my mother  
13 had -- he knew a person that he was coming to the United States  
14 and so he could bring the document.

15 Q. Okay.

16 MR. KURZBAN: I have no further questions.

17 Thank you, Your Honor.

18 THE COURT: Thank you, sir. You may step down.

19 Call the next witness.

20 MS. CHEN: Your Honor, the government calls Susanna  
21 Demirchyan, very briefly.

22 THE COURT: Okay.

23 MS. CHEN: While Ms. Demirchyan is coming to the  
24 stand, may I approach your court clerk to give copies of the  
25 declaration?

1 THE COURT: Yes.

2 The Susanna Demirchyan declaration will be Exhibit 3.

3 (Interpreter sworn.)

4 THE INTERPRETER: Z-a-r-r-e-h, M-a-r-t-i-n.

5 Languages are Armenian.

6 MR. HOFFMAN: Before we begin, Your Honor,  
7 Ms. Demirchyan wanted us to advise the court about a medical  
8 issue, and she cannot turn her head fully. And so if she can't  
9 address the court, she wanted me to bring that to the court's  
10 attention.

11 THE COURT: All right. Thank you.

12 THE CLERK: Please raise your right hand.

13 (Witness sworn through the interpreter)

14 THE WITNESS: Yes.

15 THE CLERK: Please state your full name and spell it  
16 for the record.

17 THE WITNESS: Susanna, S-u-s-a-n-n-a, Demirchyan,  
18 D-e-m-i-r-c-h-y-a-n.

19 MS. CHEN: Your Honor, may I proceed?

20 THE COURT: Yes.

21 **SUSANNA DEMIRCHYAN, DEFENSE WITNESS, SWORN, TESTIFIED:**

22 **DIRECT EXAMINATION BY DECLARATION**

23 **CROSS-EXAMINATION**

24 BY MS. CHEN:

25 Q. Mrs. Demirchyan, I'm going to ask you to look at the



1 document in front of you, your declaration which has been  
2 marked for identification as Exhibit 3.

3 THE COURT: It's received.

4 (Respondent's Exhibit 3 received in evidence)

5 MS. CHEN: Thank you, Your Honor.

6 THE COURT: It's in evidence.

7 BY MS. CHEN:

8 Q. Mrs. Demirchyan, can you turn to the last page of your  
9 declaration.

10 MS. CHEN: And, Your Honor, just for the record, I  
11 believe my copy was the one that was filed with the court by  
12 petitioner. I believe it's actually not signed by  
13 Mrs. Demirchyan. It's page five of 18 on the top of the  
14 docket.

15 MR. HOFFMAN: Your Honor, it was signed in the  
16 original Armenian, signed.

17 THE COURT: So, in other words, the declaration in  
18 the Armenian language is signed but not in the English  
19 translation.

20 MR. HOFFMAN: That's correct, Your Honor.

21 THE COURT: And is it understood that the English  
22 translation is also adopted by her?

23 MR. HOFFMAN: Yes, that's my understanding.

24 THE COURT: All right.

25 MS. CHEN: Thank you, Your Honor.

1 Q. Mrs. Demirchyan, I'm going to ask you to turn to  
2 paragraph 20 of that declaration, and you can look at the  
3 Armenian copy. It should be page nine of 18 on the top.

4 MR. HOFFMAN: Four of 18 -- it's four of 18.

5 MS. CHEN: I'm referring to the top of the -- page  
6 nine of 18 on the docket, going across the top of the document.  
7 I'm referring her to the Armenian version.

8 MR. HOFFMAN: Oh, okay. Thank you.

9 THE INTERPRETER: Paragraph again?

10 MS. CHEN: Twenty.

11 Q. Mrs. Demirchyan, you can review for me paragraph 20, and  
12 when you're done, you can look up.

13 A. Yes.

14 Q. Ma'am, in that paragraph, you describe a former neighbor  
15 from Armenia by the name of Asatur Guyumjyan getting the birth  
16 certificate for you after you sent him a power of attorney,  
17 correct?

18 A. Yes.

19 Q. And, ma'am, you remember coming to my office on multiple  
20 times in the year of 2009 to have your deposition taken,  
21 correct?

22 A. Yes.

23 Q. You remember there was a court reporter there?

24 A. Yes.

25 Q. Various different Armenian translators at each of the

1 sessions?

2 A. Yes.

3 Q. Most importantly, do you remember testifying under penalty  
4 of perjury during each of those sessions, correct?

5 A. Yes.

6 Q. And you remember on March 5th, 2009, in one of those  
7 sessions, under penalty of perjury, that you testified that a  
8 cousin by the name of Hovaans Khahyan had, in fact, gotten the  
9 birth certificate for you in 1997, correct?

10 MR. HOFFMAN: Objection. We would like the page  
11 number, please.

12 THE COURT: Yes. You are not giving us references,  
13 so do that.

14 MS. CHEN: Yes, Your Honor.

15 Your Honor, would the court like for me to pass out  
16 the deposition?

17 THE COURT: No. Just tell us what page and line  
18 you're relying on.

19 MS. CHEN: Yes, Your Honor. The deposition  
20 transcript pages 218 to 224, specifically question and answer.

21 THE COURT: What date is the deposition?

22 MS. CHEN: March 5th, 2009, Your Honor.

23 THE COURT: Whatever you feel is relevant, read it to  
24 her and ask her if she gave those answers to those questions.

25 MS. CHEN: Yes, Your Honor.

1 Q. Mrs. Demirchyan, I'm going to read you a relatively long  
2 narrative, pages, again, 218 to 224. I will reference a  
3 specific line, but also 235 to 236, and again, this is from the  
4 March 5th, 2009 deposition.

5 A. Yes.

6 MS. CHEN: Your Honor, if I may have one moment?

7 THE COURT: Okay.

8 MS. CHEN: Your Honor, if I may read from the  
9 deposition?

10 THE WITNESS: The last page is the birth certificate  
11 here, written in Russian.

12 MS. CHEN: Your Honor, I'll ask to move to strike.  
13 There was no pending question.

14 THE COURT: Motion to strike is granted.

15 MS. CHEN: Your Honor, if I may read from the  
16 deposition pages?

17 THE COURT: Read it.

18 MS. CHEN: Thank you, Your Honor.

19 Starting from page 218, line 12:

20 *"Question: Now, if I remember correctly, it was only*  
21 *1997 or 1998, one of those years, that you actually*  
22 *Got some documents from Armenia?*

23 *"Answer: '97.*

24 *"Question: Do you recall if it was later part of*  
25 *'97, early part of '97?*

1                   *"Answer: Spring of '97.*

2                   *"Question: Okay. And do you recall before we talk*  
3                   *About the actual documents, do you recall how you*  
4                   *Got the documents? Is it by mail? Did somebody*  
5                   *Bring it to you?*

6                   *"Answer: A tourist who had come to the States*  
7                   *Brought it with them.*

8                   *"Question: Okay. When you say 'tourist,' you mean*  
9                   *Like a friend who was coming to visit?*

10                  *"Answer: No, it's just like someone who is coming*  
11                  *From Armenia to the States. So they'll give this*  
12                  *Person whatever the item or document may be with a*  
13                  *Phone number here in the States, and we tell -- they*  
14                  *Tell the person, 'When you get to the States, call*  
15                  *This number, tell them you have these things, they*  
16                  *Will come and pick it up.'*

17                  *"Question: So you didn't actually know this person*  
18                  *Yourself?*

19                  *"Answer: Correct.*

20                  *"Question: Did the person work for the Armenian*  
21                  *Government?*

22                  *"Answer: Which person?*

23                  *"Question: The person who brought the documents.*

24                  *"Answer: I have no idea what the person did for a*  
25                  *Living. He was just asked to do a favor.*

1                   *"Question: Do you remember who asked him to do this*  
2                   *Favor?*

3                   *"Answer: When that woman passed away -- that woman*  
4                   *Passed away, she didn't obviously have the time to*  
5                   *Do what I had asked her to do" --*

6                   THE REPORTER: Can you slow down for me?

7                   MS. CHEN: I apologize.

8                   *"When that woman passed away -- that woman passed*  
9                   *Away, she didn't obviously have the time to do what*  
10                  *I had asked her to do. So our relatives there had*  
11                  *Asked these other people. Someone went to the*  
12                  *Archives and was able to find those documents and*  
13                  *Eventually gave it to the tourist, and the tourist*  
14                  *Brought it over."*

15                  MR. HOFFMAN: Your Honor, we would object to this  
16 point because it's not impeachment. She is not contradicting  
17 anything that is said.

18                  THE COURT: Is that the objection, no -- improper  
19 impeachment?

20                  MR. HOFFMAN: It's outside the scope.

21                  THE COURT: What is the objection, legal objection?

22                  MR. HOFFMAN: Two objections: It's outside the scope  
23 of the direct examination, which is the discussion in the  
24 affidavit, and it's also not -- improper impeachment.

25                  THE COURT: Overruled.

1 Proceed.

2 MS. CHEN: Thank you, Your Honor. Your Honor, just  
3 for the record, that was pages two --

4 THE COURT: You keep saying "for the record," is  
5 there something going on here that's not on the record?

6 MS. CHEN: No, Your Honor.

7 THE COURT: I mean, someone reading the transcript  
8 here may think that we're having a private discussion.  
9 Everything is on the record.

10 MS. CHEN: Yes, Your Honor.

11 THE COURT: All right.

12 MS. CHEN: What I just read, Your Honor, was  
13 pages 218, lines 12 through, I believe, line 24. I'm going to  
14 skip, just for efficiency sake, to page 220, line 16, starting  
15 there:

16 *"Question: Okay. So it just so happens that the*  
17 *Documents were ready at that time, and the person*  
18 *Was coming here anyway? So they gave the documents*  
19 *To this person, correct?*

20 *"Answer: Yes.*

21 *"Question: Okay. In other words, the documents*  
22 *Weren't obtained much, much earlier, and you were*  
23 *Just waiting for somebody to come to the United*  
24 *States and bring it, correct?*

25 *"Answer: While we were told they were able to find*

1           *The documents, some time passed, and then the tourist*  
2           *Came, and it's not like you have tourists coming here*  
3           *Every day or all the time."*

4           Your Honor, for efficiency, without -- unless the  
5 other side has objection, I would like to move to page 22 -- I  
6 apologize -- page 221, lines -- starting from line 12.

7           MR. HOFFMAN: I have another objection, Your Honor.  
8 We were never given an opportunity to object to the questions  
9 themselves during the deposition.

10          THE COURT: Well, she was -- was she represented?

11          MS. CHEN: She was, Your Honor.

12          THE COURT: Well, that's an improper objection. She  
13 was represented.

14          What rule of law says that trial counsel has to be  
15 present at a deposition if she was previously represented? Do  
16 you know of such a proposition?

17          MR. HOFFMAN: No, Your Honor.

18          THE COURT: That's a frivolous objection, wasn't it?

19          MR. HOFFMAN: No, Your Honor.

20          THE COURT: What is your authority for making an  
21 objection of that sort?

22          MR. HOFFMAN: My authority is that I would like to  
23 object to some of the questions.

24          THE COURT: No. You said your objection was that you  
25 were not present, and the fact is she was represented at the



1 deposition, and your objection on that basis is frivolous,  
2 isn't it?

3 MR. HOFFMAN: No, Your Honor, because she was  
4 disbarred. Ms. Rosenberg was disbarred.

5 THE COURT: So are you saying that if someone is  
6 represented at a deposition, and that person is later  
7 disbarred, then the deposition has no value?

8 MR. HOFFMAN: Not that it has no value, Your Honor,  
9 but it's ineffective assistance of counsel, and so I think  
10 there should be something --

11 THE COURT: So ineffective of counsel, and that is a  
12 different matter, isn't it? I mean, ineffective assistance of  
13 counsel is an objection that overlays all the proceedings;  
14 isn't that correct?

15 MR. HOFFMAN: Your Honor --

16 THE COURT: Ineffective assistance of counsel, unlike  
17 most civil proceedings, does have a place in these types of  
18 proceedings, does it?

19 MR. HOFFMAN: Your Honor, I --

20 THE COURT: Does it?

21 MR. HOFFMAN: I'm sorry.

22 THE COURT: Does ineffective assistance, as a matter  
23 of law, have a place in a civil proceeding such as this?  
24 Because, generally, ineffective assistance of counsel is not  
25 appropriate in a civil proceeding, only in a criminal

1 proceeding. It may have some place in these proceedings, I  
2 don't know. If it does, it's measured in terms of the  
3 proceeding as a whole, and not this specific instance.

4 So in any event, the objection is overruled.

5 MR. HOFFMAN: I misstated --

6 THE COURT: Overruled. Be seated, sir.

7 MR. HOFFMAN: Yes, sir.

8 THE COURT: Proceed.

9 MS. CHEN: Thank you, Your Honor.

10 Just very quickly, the last portion would be, again,  
11 from the March 5th, 2009 deposition of Mrs. Demirchyan,  
12 page 235, starting from line 23, and just going to page 236,  
13 line No. 4, which is:

14 *"Question: Okay. Do you recall the names of the*  
15 *Relatives who had helped you obtain the birth*  
16 *Certificate in 1997?*

17 *"Answer: Yes.*

18 *"Question: And what were their names?*

19 *"Answer: I haven't seen any documents from this*  
20 *Person to be able to spell the name, but the name is*  
21 *Hovhannes Kachanyan."*

22 Q. Mrs. Demirchyan, I'm going to ask you to turn to  
23 paragraph 21 of your declaration. Again, you can refer to the  
24 Armenian version.

25 THE INTERPRETER: For clarification, same page?

1 MS. CHEN: I believe it is on page -- the same page,  
2 I believe, page nine of 18 at the top.

3 THE INTERPRETER: Thank you.

4 THE WITNESS: Yes.

5 BY MS. CHEN:

6 Q. And, ma'am, in that paragraph, again, which is  
7 paragraph 21, you describe bringing a copy of that 1997 birth  
8 certificate to INS the fall of 1997 to try to get your son's  
9 birth year changed, correct?

10 A. Yes.

11 Q. But again, in your deposition, you stated to me that you  
12 never actually did anything yourself to try to change your  
13 son's birth year; isn't that correct?

14 MR. KURZBAN: Objection. Line and page, please, Your  
15 Honor.

16 THE COURT: What is the line and page?

17 MS. CHEN: Yes, Your Honor. It is deposition  
18 page 227, starting at line 15.

19 And, Your Honor, I did have a question to her as to  
20 whether or not she remembers it. Should I have her answer  
21 that?

22 THE COURT: Don't ask me for advice.

23 MS. CHEN: Yes, Your Honor.

24 THE COURT: I'm not an advocate here. Just ask  
25 questions and I'll make the rulings when asked.

1 MS. CHEN: Yes, Your Honor.

2 Q. Ma'am, do you remember stating in your deposition that you  
3 never did anything yourself to try to change your son's birth  
4 year?

5 A. Yes.

6 Q. You stated that you just gave the birth certificate to  
7 your son and didn't know what he did with it; isn't that right?

8 MR. KURZBAN: Improper.

9 THE WITNESS: Yes.

10 THE COURT: Well, you know, you read from the  
11 deposition before, as you've referenced the pages and lines.  
12 You never asked her were those her answers to those questions  
13 at the deposition. I mean, what's the point? Then you go to  
14 the declaration. I mean, how am I to view the deposition? Is  
15 the deposition in evidence?

16 MS. CHEN: Hers is not, Your Honor.

17 THE COURT: Then what evidentiary value does it have  
18 unless she agrees that the questions that you asked and the  
19 answers she gave, in fact, were her answers?

20 MS. CHEN: Then, Your Honor, at this time I would  
21 like to approach the court and give her a copy of the  
22 deposition transcript.

23 THE COURT: All right.

24 Generally speaking, in these kinds of matters, the  
25 parties stipulate that the depositions are correct and

1 accurate. Why hasn't there been such an agreement here?

2 MR. HOFFMAN: Your Honor, in fact, we object to this  
3 deposition.

4 THE COURT: On the ground that you just gave?

5 MR. HOFFMAN: Yes, Your Honor.

6 THE COURT: Well, other than that, is the transcript  
7 correct?

8 MR. HOFFMAN: Your Honor, I don't believe it's  
9 correct.

10 THE COURT: All right. Then why isn't it correct?  
11 What basis do you have for believing the transcript is not  
12 correct other than your contention that she wasn't properly  
13 represented?

14 MR. HOFFMAN: Your Honor, I do not believe at this  
15 time that she was represented. I misspoke before. I believe  
16 her son was represented, I don't think she was represented.  
17 She is not a party.

18 THE COURT: Well, even if she wasn't, why is that a  
19 basis to strike the deposition?

20 MR. HOFFMAN: I have serious concerns about whether  
21 she understood the questions and about the translation.

22 THE COURT: But there was a translator present,  
23 wasn't there?

24 MR. HOFFMAN: Yes, Your Honor.

25 THE COURT: And then if there's an objection being

1 made to the authenticity of the deposition, then if -- and if  
2 you're the proponent of the deposition, Ms. Chen, then you have  
3 to introduce independent evidence that may allow foundation.  
4 That would include the court reporter and the translator.

5 MS. CHEN: Your Honor, if I may, I believe this  
6 witness has agreed that she did state what I just said. So I  
7 don't actually believe --

8 THE COURT: When did she say that?

9 MS. CHEN: I believe just on the stand, Your Honor.  
10 I asked her during the deposition, isn't it true she stated she  
11 did nothing to try to change her son's birth year, and I  
12 believe her answer was yes. And I asked her isn't it a fact  
13 that you just -- you stated you gave the birth certificate to  
14 your son and didn't do anything with -- and don't know what he  
15 did with it? She said yes. Based on that record, I don't  
16 believe I need to actually introduce the deposition to see if  
17 she --

18 THE COURT: Well, if those are the points you feel  
19 are germane, then absent a further foundation for the  
20 deposition, I can accept her answers here, but I can't accept  
21 her answers with regard to parts of the deposition for which  
22 there is no foundation or testimony from her agreeing that she  
23 said what you asked.

24 All right. Proceed.  
25

1 BY MS. CHEN:

2 Q. Mrs. Demirchyan, do you have -- is there a cousin by the  
3 name of Hovhannes Kachanyan?

4 THE COURT: How do you spell that name?

5 MS. CHEN: Your Honor, I believe it's H --

6 THE WITNESS: Yes --

7 MS. CHEN: Your Honor, I apologize. It's  
8 H-o-v-h-a-n-n-e-s, K-a-c-h-a-n-y-a-n.

9 THE COURT: What is the question again?

10 MS. CHEN: Was whether or not she had -- there was a  
11 cousin by that name in the family.

12 THE WITNESS: Yes, there was.

13 BY MS. CHEN:

14 Q. And just finally, Mrs. Demirchyan --

15 THE COURT: Can I have that spelling once again,  
16 please?

17 MS. CHEN: Yes, Your Honor. I believe this is the  
18 correct spelling: The first name is H-o-v-h-a-n-n-e-s, last  
19 name is K-a-c-h-a-n-y-a-n.

20 THE COURT: Okay. All right.

21 BY MS. CHEN:

22 Q. Mrs. Demirchyan, just finally, just a few more questions,  
23 in your declaration, specifically paragraphs 23 to 25, you  
24 describe going to Armenia to get the 1997 birth certificate  
25 authenticated, correct?

1 A. No, I didn't go in '97.

2 Q. What year did you go? Was it 2000?

3 A. Yes.

4 Q. And you were asked to get it authenticated, correct?

5 A. Yes, to authenticate the '97 certificate.

6 Q. And you brought with you the original of that 1997 birth  
7 certificate, correct?

8 A. Yes.

9 Q. And again, this is the birth certificate that you obtained  
10 from Armenia in 1997, correct?

11 A. Yes.

12 Q. And you state in your declaration -- correct me if I'm  
13 wrong -- that when you went back to Armenia, they re-issued a  
14 new birth certificate with a 2000 year, correct?

15 A. How is that? Say it again, please.

16 Q. Sure. In paragraph 25 of your declaration, you state that  
17 they took the old one --

18 THE COURT: Who is "they"?

19 MS. CHEN: I believe, Your Honor, it's officials in  
20 the --

21 THE COURT: Well, then --

22 MS. CHEN: -- city hall.

23 THE COURT: -- specify whatever the party is.

24 MS. CHEN: Yes, Your Honor.

25 Q. Mrs. Demirchyan, in paragraph 25 of your declaration, you



1 state that an official in the city hall in Yerevan took the old  
2 one and told you that a new one needed to be re-issued; is that  
3 correct?

4 A. Yes.

5 Q. So, in other words, they took the original of the 1997 and  
6 re-issued a new one with the year 2000; is that correct?

7 A. Yes.

8 MS. CHEN: Your Honor, I have no further questions.

9 THE COURT: All right. Any further questions?

10 **REDIRECT EXAMINATION**

11 BY MR. HOFFMAN:

12 Q. Good morning, Ms. Demirchyan.

13 A. Good morning.

14 Q. Now, Ms. Chen asked you several questions relating to the  
15 affidavit that you filed.

16 Do you have a memory of the 1997 birth certificate?

17 A. Yes.

18 Q. Okay. And what was your first attempt to try to obtain  
19 that birth certificate?

20 A. My first attempt, that I called my neighbor in Armenia.

21 Q. Okay. What was the name of that neighbor?

22 A. Lusik, Lusine or Lusineh. We call her by those three  
23 names.

24 Q. And how did you know this individual?

25 A. My neighbor across the way.

1 Q. Okay. And was she able to obtain that birth certificate?

2 A. No.

3 Q. And why not?

4 A. There was an earthquake in the country. There was war in  
5 the country, and the Soviet Union had collapsed.

6 Q. And why did you wait until 1997 to get the birth  
7 certificate?

8 A. I always wanted to change it. I was in touch. I called  
9 once in awhile to have it changed.

10 Q. Okay. Why were you not able to get it before 1997?

11 A. In '95 or '96, between that time, I'm not sure, Lucy  
12 committed suicide.

13 Q. And when she committed suicide, did you ask anyone else to  
14 get the document?

15 A. Yes.

16 Q. Who else did you ask?

17 A. Our neighbor, Asatur Guyumjyan.

18 Q. And what exactly did you ask Mr. Asatur Guyumjyan?

19 A. I asked him, "Can you get my son's birth certificate from  
20 the archive?"

21 Q. And why did you need the birth certificate from the  
22 archive?

23 A. Because he had lost the original.

24 Q. Okay. Did you give to Asatur anything to enable him to do  
25 that?

1 A. I sent a power of attorney.

2 Q. Okay. And then what did Asatur do with that power of  
3 attorney?

4 A. He took it to our -- our area's registration and got the  
5 birth certificate.

6 Q. Okay. Which office specifically, which office did he take  
7 it to in Armenia?

8 MS. CHEN: Objection, Your Honor --

9 THE COURT: You're asking hearsay questions. I mean,  
10 you're asking her to relate what was told to her by Asatur  
11 allegedly. So he's going to testify, isn't he?

12 MR. HOFFMAN: Yes, Your Honor.

13 THE COURT: Why don't we wait to hear what he has to  
14 say.

15 MR. HOFFMAN: Yes, Your Honor.

16 Q. After Asatur obtained the document, what did he do with  
17 it?

18 THE COURT: Well, it's the same line of questioning.  
19 I mean, she has no firsthand knowledge of this.

20 BY MR. HOFFMAN:

21 Q. Well, let me ask: Did you instruct him to do anything  
22 with it?

23 A. Yes.

24 Q. What were your instructions?

25 A. Our relative over in Armenia said a tourist was coming,

1 and we told Asatur to take it to him. So they send it via the  
2 tourist. It was an acquaintance of Hovhannes.

3 Q. Okay. Just so I understand, who contacted Hovhannes  
4 Kachanyan?

5 THE COURT: I mean, so you understand is not helpful  
6 to me. I have to understand.

7 MR. HOFFMAN: Yes, Your Honor.

8 THE COURT: And you're not laying a foundation.

9 MR. HOFFMAN: Yes, Your Honor.

10 Q. Who did you instruct to bring the birth certificate to the  
11 United States?

12 THE COURT: Isn't the question who did you tell  
13 Asatur to give the certificate to, to bring it to the United  
14 States? Isn't that what --

15 MR. HOFFMAN: If anyone. Yes, Your Honor.

16 THE COURT: All right.

17 MR. HOFFMAN: Yes, Your Honor. If I may rephrase the  
18 question?

19 THE COURT: I'll let that question stand.

20 MR. HOFFMAN: Yes, Your Honor.

21 THE COURT: Answer the question.

22 THE WITNESS: Can you ask it one more time?

23 THE COURT: Who did Susanna Demirchyan tell -- what  
24 name did she give to Asatur to deliver the birth certificate --  
25 to have the birth certificate delivered to the United States?

1 THE WITNESS: Hovhannes Kachanyan.

2 THE COURT: All right.

3 MR. HOFFMAN: Thank you, Your Honor.

4 Q. And what did Hovhannes do with it -- how did he get to the  
5 United States ultimately?

6 THE COURT: There is no foundation for that. You can  
7 ask her whether Kachanyan gave her the birth certificate, but I  
8 don't know how she can say whether she took a boat or a plane  
9 or where she put it. So just ask.

10 BY MR. HOFFMAN:

11 Q. Did you receive the birth certificate from Hovhannes  
12 Kachanyan?

13 A. I got it from the tourist.

14 Q. Okay. And --

15 THE COURT: Was it -- is the tourist someone other  
16 than Kachanyan?

17 THE WITNESS: Person who was coming here. Kachanyan  
18 stayed there.

19 THE COURT: So what I'm understanding, and ask her to  
20 confirm, is that her testimony is that she gave a power of  
21 attorney to Asatur to get the 1997 birth certificate; that  
22 Asatur told her that he obtained it; that Asatur, at her  
23 instruction, gave the birth certificate to someone named  
24 Kachanyan, and Kachanyan gave it to a tourist who is coming to  
25 the United States to deliver it to her.

1 Is that what happened?

2 THE WITNESS: I don't know who gave it to who. But  
3 it was Hovhannes' acquaintance --

4 THE COURT: Let's call it Kachanyan.

5 THE WITNESS: Okay.

6 THE COURT: So why was Kachanyan necessary? Why  
7 couldn't Asatur give it to the tourist? Why is Kachanyan a  
8 necessary link?

9 THE WITNESS: At that moment, it was his acquaintance  
10 who was coming.

11 THE COURT: It was Kachanyan's acquaintance.

12 THE WITNESS: Yes.

13 THE COURT: I see. So it went from Asatur to  
14 Kachanyan to the tourist?

15 THE WITNESS: I don't know if together or he gave it  
16 to him. I don't know.

17 THE COURT: I see.

18 THE WITNESS: I wasn't there.

19 THE COURT: But did the tourist give the certificate  
20 to her?

21 THE WITNESS: Yes.

22 THE COURT: And what was the name of the tourist?

23 THE WITNESS: They didn't tell me their name.

24 THE COURT: And where was the birth certificate  
25 delivered?

1 THE WITNESS: They gave our name and our phone  
2 number. They called and brought it to us.

3 THE COURT: And is there testimony that this unnamed  
4 tourist brought it to her house?

5 THE WITNESS: I don't know if we met someplace or  
6 they came or I went.

7 THE COURT: She doesn't remember the circumstances of  
8 getting the birth certificate?

9 THE WITNESS: No, I don't remember.

10 THE COURT: Is that correct, she doesn't remember?

11 THE WITNESS: Yes, I don't remember.

12 THE COURT: All right. Okay. Thank you. Let's take  
13 the morning recess.

14 MR. HOFFMAN: Yes, Your Honor.

15 (Recess)

16 THE COURT: So where were we? You had a few more  
17 questions.

18 MR. HOFFMAN: Yes, Your Honor. Just a few more  
19 questions.

20 Q. So after you received the birth certificate, what did you  
21 do with it?

22 A. I gave it to my son.

23 Q. Okay. And what did your son do with it?

24 THE COURT: Again, I mean, you have to lay a  
25 foundation. If she was present when he did something with it,

1 then she can testify; otherwise, it's not helpful.

2 BY MR. HOFFMAN:

3 Q. Did you -- did you personally do anything with the birth  
4 certificate with your son?

5 THE COURT: I don't know what that means, "anything."

6 BY MR. HOFFMAN:

7 Q. Did -- what did you do with the birth certificate with  
8 your son?

9 THE COURT: That assumes that she did something. She  
10 said she gave the birth certificate to her son. Does she --  
11 did she -- I mean, ask her a question, did she ever see the  
12 birth certificate again.

13 BY MR. HOFFMAN:

14 Q. Did you ever see the birth --

15 THE COURT: When was the next time she saw it?

16 BY MR. HOFFMAN:

17 Q. Did you ever see the birth certificate again?

18 A. At the time that I went with my son to immigration.

19 Q. Okay. And what happened at that point?

20 THE COURT: When was that?

21 BY MR. HOFFMAN:

22 Q. When was that?

23 A. In '97.

24 Q. Okay. And --

25 THE COURT: What did you see your son do with the



1 birth certificate, if anything?

2 MR. HOFFMAN: Yes, Your Honor.

3 THE WITNESS: He showed at immigration to the person  
4 at the front desk.

5 MR. HOFFMAN: Okay.

6 THE COURT: You were there?

7 BY MR. HOFFMAN:

8 Q. And you were present?

9 A. I was next to him.

10 THE COURT: Did she hear what the person at the front  
11 desk said to her son, if anything? Yes or no?

12 THE WITNESS: Yes.

13 THE COURT: What did she hear him say?

14 THE WITNESS: I didn't understand totally, but what I  
15 understood was that we are giving an address.

16 THE COURT: Was the person speaking in English or in  
17 Armenian?

18 THE WITNESS: English.

19 THE COURT: And based upon the translator's presence  
20 here, does Susanna Demirchyan understand English?

21 THE INTERPRETER: To my limited knowledge, I believe  
22 she has limited understanding.

23 THE COURT: Is that what she is saying?

24 THE INTERPRETER: I don't know.

25 THE COURT: That is the question. Can she understand

1 English?

2 THE WITNESS: I don't understand --

3 THE COURT: All right.

4 THE WITNESS: -- a hundred percent.

5 THE COURT: Okay.

6 BY MR. HOFFMAN:

7 Q. Mrs. Demirchyan, in your affidavit, paragraph 22, you say  
8 that you stood in a very long line and you discussed the trip  
9 to the INS office.

10 A. Yes.

11 Q. And paragraph 22 says you did not get the original back  
12 from INS until the 2000 immigration court hearing; is that  
13 correct?

14 THE COURT: "The original" being the 1997  
15 certificate, correct?

16 MR. HOFFMAN: Correct.

17 Q. Is that correct?

18 A. No.

19 Q. Okay. Can you explain why that may not be correct?

20 THE COURT: What may not be correct, what she said in  
21 her declaration or --

22 MR. HOFFMAN: Correct. I think there's a  
23 misunderstanding in the declaration --

24 THE COURT: All right. Then if you want her to  
25 explain what she said in -- is it paragraph 22?

1 MR. HOFFMAN: Yes, Your Honor.

2 THE COURT: Then she can do that.

3 MR. HOFFMAN: Yes, Your Honor.

4 THE WITNESS: Should I look at it now?

5 THE COURT: Yes.

6 MR. HOFFMAN: Yes, you may.

7 THE WITNESS: Do I speak now?

8 THE COURT: Yes.

9 MR. HOFFMAN: Yes.

10 THE WITNESS: I'm going to speak?

11 THE COURT: Yes.

12 THE WITNESS: Explain it to me again, please. Again.

13 BY MR. HOFFMAN:

14 Q. Paragraph 22 states that "We did not get the original back  
15 from INS until the 2000 immigration court hearing."

16 Would you like to explain that?

17 A. Not the original. Probably I meant the translation.

18 Q. Okay. Did your son take --

19 A. The -- the translated certified.

20 Q. Okay. Just for clarity, for the court to understand, did  
21 your son take the original back in 1997?

22 THE COURT: Back from where?

23 BY MR. HOFFMAN:

24 Q. From the INS officer, when he showed it to the INS  
25 officer.

1 THE COURT: We're now focused on this event where the  
2 witness and her son are present --

3 MR. HOFFMAN: Correct.

4 THE COURT: -- and you're asking whether the son  
5 received something back from the immigration officer.

6 MR. HOFFMAN: Correct, Your Honor.

7 THE COURT: Is that the question?

8 MR. HOFFMAN: Whether he received the original back  
9 or he sent the original away in 1997. I just -- I think it's  
10 important for the court to understand the chain of custody of  
11 the original.

12 THE COURT: I'm trying to understand that, and I'm  
13 trying to understand what part of it she witnessed and what she  
14 didn't. So thus far, I'm focused on that window at the  
15 immigration office --

16 MR. HOFFMAN: Yes, Your Honor.

17 THE COURT: -- where she presented the 19 -- or son  
18 presented the 1997 birth certificate, and it wasn't received.  
19 That's what I understand, correct? It was not received.  
20 That's what she is saying.

21 MR. HOFFMAN: That's correct.

22 THE COURT: That's what she is saying?

23 MR. KURZBAN: That's correct.

24 MR. HOFFMAN: That's correct.

25 THE COURT: Yes. So did your son leave that window

1 or that office with the 1997 birth certificate?

2 THE WITNESS: He left there -- there was also a blue  
3 piece of paper with a -- with a birth certificate.

4 THE COURT: And so did she witness her son giving  
5 that certificate to someone else or sending it to someone else?  
6 Did she personally witness that, other than what her son told  
7 her?

8 THE WITNESS: No, I didn't see him send the original  
9 anywhere.

10 THE COURT: All right.

11 MR. HOFFMAN: Okay. Thank you, Your Honor.

12 Q. Did there come a time when your son asked you to provide  
13 him with the original?

14 A. Yes.

15 Q. And what happened?

16 A. He had it translated in English to send it to the  
17 immigration -- some address at immigration.

18 Q. No, no. My question is: Did there come a time that your  
19 son asked you to provide the original to him?

20 THE COURT: You know something --

21 THE WITNESS: I gave it.

22 THE COURT: One minute. You know, this is important  
23 for me to follow, and chronologically I can't follow it because  
24 the testimony from this witness is that when she left the  
25 immigration office with her son, after the immigration office

1 didn't accept the birth certificate, he maintained possession  
2 of the birth certificate; is that true?

3 MR. HOFFMAN: Correct, Your Honor.

4 THE COURT: Is that true?

5 THE WITNESS: I don't know. He had to have it  
6 translated. They didn't take --

7 THE COURT: I'm not talking about translating. When  
8 she got the certificate -- when the certificate was not  
9 accepted by immigration --

10 THE WITNESS: Yes.

11 THE COURT: -- who took the birth certificate back  
12 with them, her son or Mrs. Demirchyan?

13 THE WITNESS: Well, we live together. It was in the  
14 box.

15 THE COURT: So, is she saying that the birth  
16 certificate was placed in a box in her house?

17 THE WITNESS: Yeah, we were living together.

18 THE COURT: Is that where the birth certificate was,  
19 in a box in the house?

20 THE WITNESS: Yes.

21 THE COURT: All right. So what was the next  
22 question?

23 BY MR. HOFFMAN:

24 Q. When was the next time that you saw that birth  
25 certificate?

1 A. When Arutyun was in proceedings in Arizona, immigration.

2 Q. Did you give this document to anyone in Arizona?

3 THE COURT: What year is that?

4 MR. HOFFMAN: Well, it's 2000, but I can ask her.

5 THE COURT: All right, 2000.

6 THE WITNESS: 2000, yes.

7 BY MR. HOFFMAN:

8 Q. Did you ever give the document to anyone in 2000?

9 THE COURT: "Document" meaning the 1997 birth  
10 certificate?

11 MR. HOFFMAN: Yes, Your Honor.

12 THE WITNESS: Gave it to our -- our lawyer, to  
13 Mr. Crow.

14 BY MR. HOFFMAN:

15 Q. Okay. When is the next time you saw that birth  
16 certificate?

17 A. When the judge during the hearing gave it to me.

18 Q. And why did he give it to you?

19 THE COURT: This is the immigration judge?

20 MR. HOFFMAN: Yes, Your Honor.

21 THE WITNESS: Immigration judge.

22 BY MR. HOFFMAN:

23 Q. And why did he give it to you?

24 A. He said take this and have it authenticated. It is not  
25 authenticated.

1 Q. Okay. And did you do that --

2 THE COURT: Is this on the record?

3 MR. HOFFMAN: Yes, Your Honor. This is part of the  
4 record and it's a --

5 THE COURT: If it's on the record, why do I have to  
6 hear it from her? I mean, it was done. I accept that. Move  
7 on.

8 MR. HOFFMAN: Yes, Your Honor.

9 Q. Did you then take it and get it authenticated in Armenia?

10 A. Yeah.

11 Q. And what did you do in Armenia to get it authenticated?

12 A. First I went to the American consulate.

13 MR. HOFFMAN: Can you repeat that, translator?

14 THE INTERPRETER: First I went to the American  
15 consulate.

16 BY MR. HOFFMAN:

17 Q. Okay. And what did they tell you there?

18 A. They said you have to take it and have it apostilled.

19 Q. Okay. Where would she go to do that?

20 A. Ministry of Justice in Armenia.

21 Q. And did she go to Ministry of Justice?

22 THE COURT: Did you, the witness.

23 BY MR. HOFFMAN:

24 Q. Did you, Mrs. Demirchyan, go to the Ministry of Justice?

25 A. Yes.



1 Q. In what city was that?

2 A. Yerevan.

3 Q. Okay. And at the Ministry of Justice in Yerevan, what did  
4 they tell you?

5 A. They said this certificate is not from the central  
6 archives; you have to go to the central archives to get one.

7 Q. Okay. Why was it not from the central archives? Do you  
8 know where it was from?

9 A. It was from our neighborhood -- it was received from  
10 there.

11 Q. I'm sorry?

12 THE INTERPRETER: From our neighborhood thing, it was  
13 received from there, the certificate.

14 BY MR. HOFFMAN:

15 Q. Okay. And they told you -- did you go to the central  
16 archives?

17 A. Yes.

18 Q. Okay. What happened at the central archives?

19 A. I said, "Please give me Demirchyan, Arutyan's, 1997 birth  
20 certificate.

21 Q. Okay. What condition was this birth certificate in?

22 THE COURT: You know, I can't follow -- one moment,  
23 one moment. I can't follow what you're trying to develop.

24 MR. HOFFMAN: Yes, Your Honor. I'm going to get  
25 there.

1 THE COURT: I'm interested in knowing when she went  
2 to the archives, did she present this 1997 birth certificate.

3 MR. HOFFMAN: Yes, Your Honor.

4 THE COURT: And the way you've asked the question, it  
5 allows the inference that she just asked for a new birth  
6 certificate.

7 MR. HOFFMAN: Yes, Your Honor.

8 THE COURT: So it's unclear.

9 BY MR. HOFFMAN:

10 Q. Did you present --

11 MR. HOFFMAN: Thank you, Your Honor.

12 Q. Did you present the 1997 birth certificate at the central  
13 archives?

14 A. Yes.

15 Q. Okay. And what did they tell you?

16 A. They gave me a new one.

17 Q. Okay. And what happened to the old one?

18 A. They took it.

19 Q. Why did they take it?

20 A. I don't know.

21 Q. Okay. Did you have any idea why they took it?

22 THE COURT: That's not a helpful question.

23 MR. HOFFMAN: Strike that.

24 Q. What was the condition of the document?

25 THE COURT: What document?

1 BY MR. HOFFMAN:

2 Q. What was the condition of the 1997 birth certificate?

3 THE COURT: "Condition" meaning physical condition?

4 MR. HOFFMAN: Yes, Your Honor.

5 THE WITNESS: It was a bit torn and it seemed like  
6 the stamp on it didn't appear clearly. It wasn't clear.

7 BY MR. HOFFMAN:

8 Q. Were you provided a choice to keep the document or did you  
9 have to provide the 1997 birth certificate back to the central  
10 archives?

11 A. They didn't tell me anything. They took it. I don't  
12 know.

13 Q. Okay. Thank you.

14 How many birth certificates did you request that day?

15 A. Two.

16 Q. Okay. Why did you request two?

17 A. Because I obtained it with such difficulty. I thought  
18 that let one stay with me.

19 Q. Okay. And what did you receive from the central archives  
20 that day?

21 A. Two birth certificates. One is the birth certificate; one  
22 is a copy. Do they call it a copy -- a duplicate.

23 Q. Okay. I would like to show you Exhibit 108.

24 MS. CHEN: Your Honor, the government does object.

25 That is an exhibit that's already been declared inadmissible by

1 this court in its September 2011 findings of fact, conclusions  
2 of law.

3 THE COURT: What is Exhibit 108?

4 MS. CHEN: I believe, Your Honor, it is a birth  
5 certificate that was issued in 2000. Apparently it's the one  
6 that was reissued to her during this trip.

7 THE COURT: Well, I mean, she can testify to it. I  
8 mean, the question of its authenticity remains, but she can  
9 say, for whatever value it has, that she got this birth  
10 certificate.

11 MS. CHEN: Yes, Your Honor.

12 THE COURT: It's agreed that she got -- 108 is the  
13 birth certificate she received, so she testified --

14 MR. HOFFMAN: Yes, Your Honor.

15 THE COURT: -- in Armenia in 2000.

16 MR. HOFFMAN: Yes, Your Honor, and I would like her  
17 to look at it to make sure this is the one that the court has  
18 in its file and the one that she got from Armenia, because  
19 there's two.

20 THE COURT: All right.

21 MR. HOFFMAN: Does she have 108 in front of her right  
22 now? There was some confusion, Your Honor, because 108 was not  
23 part of our record that we have. And I think Ms. Chen doesn't  
24 have --

25 THE COURT: What record? What record? Counsel, what

1 record are you talking about?

2 MR. HOFFMAN: In the exhibit book it seems to stop at  
3 107. So I'm not sure what the court reviewed.

4 THE COURT: What exhibit book? What hearing are you  
5 referring to?

6 MR. KURZBAN: If I may explain, Your Honor. What  
7 happened is apparently the last lawyers at the very end  
8 provided you what did become Exhibit 108. You ruled on the  
9 admissibility because you were concerned at that time that the  
10 document did not have the proper authentication and you ruled  
11 that it was not admissible. Ms. Chen had a copy of it this  
12 morning. We never got the copy. So we provided it this  
13 morning, and she has it in front of her. It's 108.

14 THE COURT: So 108, as identified in these  
15 proceedings, is represented to be the birth certificate that  
16 this witness received from the archives in Armenia.

17 MR. KURZBAN: That's correct, Your Honor.

18 THE COURT: All right. Then she can look at it and  
19 say if it is.

20 Now, is there any question about what 108 is? Do you  
21 want to see it?

22 MS. CHEN: Your Honor, I did provide a copy.

23 THE COURT: I see. So that she can look at it and  
24 say yes or no.

25 MS. CHEN: And, Your Honor, just for clarity of the

1 record, while counsel did say that they did not receive a copy,  
2 they did not receive a copy of that birth certificate labeled  
3 as Exhibit 108, but it was produced to them in discovery,  
4 including in a FOIA request production.

5 THE COURT: All right.

6 MR. HOFFMAN: That's correct.

7 THE CLERK: Exhibit 108 placed before the witness.

8 BY MR. HOFFMAN:

9 Q. Mrs. Demirchyan, are you looking at a birth certificate?

10 A. Yes.

11 Q. Okay. Is the first page a general authentication  
12 certificate that you're looking at?

13 THE COURT: Actually, you're asking her legal  
14 questions. Isn't the point just to say -- just to ask her  
15 whether, in looking at 108, she can say that is what she  
16 received from the archives; isn't that the point?

17 MR. HOFFMAN: Yes, Your Honor, but 108 has several  
18 pages.

19 THE COURT: Then ask her if each of these pages is  
20 what she received. Don't ask her to describe the legal  
21 significance of things.

22 MR. HOFFMAN: Yes, Your Honor.

23 Q. Did you receive the first page of this document entitled  
24 "General Authentication Certificate"?

25 THE COURT: From the archives.

1 BY MR. HOFFMAN:

2 Q. Well, from the archives or from another office in Armenia?

3 A. No.

4 Q. Okay. Just so we're clear, we're looking at the General  
5 Authentication Certificate.

6 A. I got this one.

7 Q. Where did you -- what do you mean by "this one"?

8 A. The birth certificate written in Armenian.

9 Q. Okay. And what is the issuance date or the date of  
10 registration?

11 A. November 23 or 20, it doesn't show -- or 29 or 23.

12 THE COURT: What year?

13 THE WITNESS: 2000, November.

14 MR. HOFFMAN: Okay.

15 Q. Do you have a translation in front of you?

16 A. No. It's Armenian.

17 Q. You don't have a translation in English?

18 A. There isn't a translation, yes.

19 Q. Okay. And so the date of -- what is the date of issue on  
20 the translation?

21 A. Yeah, 23, November 23.

22 MS. CHEN: Your Honor, objection. I believe the  
23 witness does not read English. So I would object based on lack  
24 of personal knowledge.

25 MR. HOFFMAN: She can read the numbers --

1 THE COURT: Don't respond to each other. I mean, it  
2 is what it is. I mean, she is identifying it. If that's what  
3 it says, it says it.

4 THE WITNESS: November.

5 THE COURT: All right.

6 MR. HOFFMAN: All right.

7 Q. Are there any other -- do the other pages in that  
8 exhibit -- have you seen them before?

9 A. I have seen them; I haven't read them.

10 Q. Okay.

11 THE COURT: Were the other pages in the exhibit,  
12 other than the birth certificate, pages that she received from  
13 the archives or some other office in Armenia in or about  
14 November 2000. That's the question.

15 MR. HOFFMAN: That's the question.

16 Q. Are the other pages that you --

17 THE COURT: Don't ask the question because you'll  
18 confuse it.

19 MR. HOFFMAN: Yes, sir.

20 THE COURT: Answer my question.

21 THE WITNESS: What do I answer?

22 THE COURT: Read back my question.

23 (Court's question read.)

24 THE WITNESS: I'm talking about this one. I only got  
25 this one from the archive.



1 THE COURT: "This one" meaning only the birth  
2 certificate?

3 THE WITNESS: The birth certificate, yes.

4 THE COURT: And have her identify, in Exhibit 108,  
5 what page in that exhibit she is identifying by way of  
6 consecutive pages.

7 THE WITNESS: Nine.

8 THE COURT: All right then. Page nine is the only  
9 page -- the only part of that document that she received.

10 BY MR. HOFFMAN:

11 Q. Okay. What did you do with the birth certificate after  
12 you received it from the central archives?

13 A. I took it to the justice ministry and had it  
14 authenticated.

15 Q. Of which country?

16 A. In Armenia, Yerevan.

17 Q. Okay. And did they do that?

18 A. Yes.

19 Q. And where did you take it after that, if anywhere?

20 A. I took it to the consulate again, American.

21 Q. And is that reflected in any of these documents in  
22 Exhibit 108?

23 A. One minute. It's right in here?

24 Q. Yes.

25 A. Here it says "Written consulate" here. Page 220.

1 THE COURT: What page is she referring to?

2 THE INTERPRETER: Page 220.

3 THE COURT: Page what?

4 THE INTERPRETER: 220.

5 THE COURT: Of what exhibit? Exhibit 108?

6 THE INTERPRETER: 108, Your Honor.

7 THE COURT: Okay. So the answer to her question  
8 regarding whether, what, she received something from the  
9 American consulate?

10 MR. HOFFMAN: Yes, Your Honor.

11 THE COURT: Her answer is yes, and it's reflected in  
12 page 220 of Exhibit 108.

13 MR. HOFFMAN: Yes.

14 THE WITNESS: Yes.

15 THE COURT: All right.

16 MR. HOFFMAN: Yes, Your Honor. Page 220 refers to  
17 the FOIA stamp -- Bates stamp at the bottom right-hand side of  
18 the page.

19 THE COURT: Whatever it is, she's identified it.

20 MR. HOFFMAN: Yes, Your Honor.

21 Q. And last question, what did you do with these documents  
22 that you just identified after that?

23 THE COURT: What documents?

24 BY MR. HOFFMAN:

25 Q. What did you do with Exhibit -- the documents in

1 Exhibit 108? What did you do with them at that point?

2 THE COURT: At what point -- one minute. At what  
3 point?

4 BY MR. HOFFMAN:

5 Q. After the embassy.

6 THE COURT: All right.

7 THE WITNESS: I brought it and presented it to the  
8 judge in Arizona.

9 BY MR. HOFFMAN:

10 Q. And did he accept it?

11 A. Yes.

12 Q. Okay.

13 MR. HOFFMAN: Your Honor, no further questions.

14 THE COURT: All right. Any further questions?

15 MS. CHEN: Not for this witness, Your Honor.

16 THE COURT: I was interested in knowing whether there  
17 was any evidence, one way or the other, regarding her presence  
18 in Armenia at this time period. Is there? Has the plaintiff  
19 presented any evidence of her being in Armenia?

20 MS. CHEN: Your Honor, we have not received any plane  
21 tickets or stubs or any travel documents to confirm that.

22 THE COURT: What about passport references? Has that  
23 been presented?

24 MS. CHEN: It has not, Your Honor.

25 THE COURT: Isn't that a matter of some curiosity?

1 MS. CHEN: Yes, Your Honor.

2 MR. HOFFMAN: Your Honor, we'll be happy to present  
3 those documents. We looked for those --

4 THE COURT: I mean, it seems to me that that --

5 MR. KURZBAN: Let them check.

6 THE COURT: -- would be helpful to your case to  
7 present some evidence that she was in Armenia at those times.

8 MR. HOFFMAN: Yes, Your Honor.

9 THE COURT: And knows places. I'm surprised --  
10 actually, I'm surprised on -- with regard to both parties.  
11 Seems to me if there is evidence, the proponents would want to  
12 introduce it. If there isn't, the government would want to  
13 point that out or show that the passport doesn't confirm that  
14 she was there. The fact that no one has even explored this is  
15 surprising.

16 All right. We'll take the lunch.

17 Do you have any -- you have no further questions.  
18 Who is the next witness?

19 MS. CHEN: Your Honor, I believe there's two  
20 witnesses left, including Asatur Guyumjyan.

21 THE COURT: All right. Then have Asatur on the stand  
22 at 1:15. Take the lunch break.

23 MS. CHEN: Yes, Your Honor.

24 MR. HOFFMAN: Yes, Your Honor.

25 (Noon recess)

1           **LOS ANGELES, CALIFORNIA; WEDNESDAY, OCTOBER 24, 2012;**

2                           **1:40 P.M.**

3                           - - - - -

4  
5                   THE CLERK:   Item 1, CV 08-3452-SVW, Arutyan  
6           Demirchyan v. Alberto R. Gonzalez.

7                   Counsel, please state your appearances.

8                   MS CHEN:   Once again, Carol Chen for the United  
9           States.   Also present at counsel's table is ICE senior attorney  
10          Jillian Woods.

11                  MR. HOFFMAN:   Geoffrey Hoffman for the petitioner.

12                  MS. CHEN:   We're ready with the next witness.

13                  I believe the next witness is Asatur Guyumjyan, and  
14          again for the court reporter, first name is A-s-a-t-u-r, last  
15          name is G-u-y-u-m-j-y-a-n.

16                  MR. HOFFMAN:   We before take the next witness, may I  
17          raise an objection regarding exhibits?

18                  THE COURT:   Not right now.

19                  MR. HOFFMAN:   Thank you, Your Honor.

20                  MS. CHEN:   I believe I did get two copies of  
21          Mr. Guyumjyan's declaration to your court clerk.

22                  THE COURT:   Okay.

23                  THE CLERK:   Please stand behind the court reporter.

24                  (Witness sworn through the interpreter)

25                  THE WITNESS:   Yes.

1 THE CLERK: Please be seated.

2 State your full name and spell it for the record.

3 THE WITNESS: Asatur Guyumjyan, A-s-a-t-u-r, yeah,  
4 and G-u-y-u-m-j-y-a-n.

5 MS. CHEN: May I proceed?

6 THE COURT: Yes.

7 MS. CHEN: Your Honor, by my calculation, his  
8 declaration should be marked as Exhibit 4, I believe?

9 THE COURT: Yes.

10 MS. CHEN: Thank you, Your Honor.

11 **ASATUR GUYUMJYAN; PETITIONER'S WITNESS, SWORN, TESTIFIED:**

12 **DIRECT EXAMINATION BY DECLARATION**

13 **CROSS-EXAMINATION**

14 BY MS. CHEN:

15 Q. Mr. Guyumjyan, can you take a look at the document which  
16 has been marked for identification as Exhibit 4 in front of  
17 you.

18 A. What is this?

19 Q. Do you recognize the two-paged document? Do you recognize  
20 the signature on it on the second page?

21 A. Yes.

22 Q. Is that your signature?

23 A. Yes.

24 Q. You are testifying today with an Armenian interpreter,  
25 correct?

1 A. Yes.

2 Q. Are you able to read this two-page document which is in  
3 the English language?

4 A. You translated it for me.

5 Q. Who translated for you?

6 A. The interpreter.

7 Q. Is there --

8 I do note there's no interpreter or translation  
9 attached to this document, Your Honor. This is the entire  
10 document I received from -- off of what was filed from  
11 petitioner.

12 THE COURT: Can the witness read this document, which  
13 is in the English language?

14 THE WITNESS: Now this? No.

15 THE COURT: Is he able to read in the English  
16 language?

17 THE WITNESS: I can read to a certain extent in  
18 English.

19 THE COURT: Can he understand the affidavit he  
20 submitted which is in the English language?

21 THE WITNESS: Yes, I understand the meaning.

22 THE COURT: Does he understand the meaning because he  
23 read the words and understands them or for some other reason?

24 THE WITNESS: Nothing complicated --

25 THE COURT: Read the first paragraph.

1 THE WITNESS: It's my name, last name, where I live.

2 THE COURT: Read the second sentence.

3 THE WITNESS: It's my phone number, my address.

4 THE COURT: Pretty obvious. Read paragraph -- read  
5 paragraph six.

6 THE WITNESS: I can't read it very well. That's  
7 why ...

8 THE COURT: Read paragraph 11.

9 THE WITNESS: Eleven?

10 THE COURT: Yes. Tell me what it says.

11 THE WITNESS: I can understand what it is, but I  
12 can't read it.

13 THE COURT: Well, I want him to read it.

14 Tell me what it says.

15 THE WITNESS: Eleven?

16 THE COURT: Yes.

17 Did you prepare this declaration in English?

18 THE WITNESS: This declaration?

19 THE COURT: Yes.

20 THE WITNESS: Yeah, but they translated it for me,  
21 what is here.

22 THE COURT: Where is the Armenian version of this?

23 MR. KURZBAN: Your Honor, there is none. It was  
24 translated to him. In other words, the document was prepared;  
25 it was translated to him; he understood it; and he signed it.



1 It should have had -- I apologize. Obviously, it should have  
2 had another line that said this document has been translated to  
3 me and in English from Armenian, but everything in it, as far  
4 as we know, is accurate.

5 THE COURT: Well, then, he's here, so you can examine  
6 him.

7 MS. CHEN: Yes, Your Honor. Thank you.

8 Q. Sir, I want to be clear: So the second page, you do  
9 recognize that as your signature, correct?

10 A. Yes.

11 Q. And your recollection is, again, that there was an  
12 interpreter in the -- who translated a document, a declaration  
13 in the Armenian language for you?

14 A. Yes, because I signed it.

15 Q. You signed this document -- correct -- this two-page  
16 document in the English language?

17 A. Yes, that's my signature.

18 Q. Did you ever sign a document in the Armenian language that  
19 you understood to be this document?

20 A. I haven't seen an Armenian-language document.

21 Q. So let me ask you this, then. I'm going to ask you about  
22 specific paragraphs and have the interpreter today translate it  
23 for you. Now, I'm going to go to paragraph five.

24 Ask, Your Honor, with the court's permission, to have  
25 the translator -- so there's no doubt -- have him translate it

1 for the witness today?

2 THE COURT: What was that?

3 MS. CHEN: I would like the interpreter to translate  
4 on the record for the witness today paragraphs -- certain  
5 paragraphs of his declaration.

6 THE COURT: Okay.

7 BY MS. CHEN:

8 Q. The first paragraph is paragraph five.

9 (Translator translates the document)

10 THE WITNESS: Suicide, yes.

11 BY MS. CHEN:

12 Q. Sir, is that -- based on what was just translated to you,  
13 is that truthful and accurate testimony based on your best  
14 recollection?

15 A. Completely true.

16 MS. CHEN: Ask the translator, with the court's  
17 permission, to translate paragraph six for the witness.

18 (Translator translates the document)

19 THE WITNESS: The mother, yes.

20 BY MS. CHEN:

21 Q. Again, based on the interpreter's translation to you  
22 today, is that truthful and accurate testimony based on your  
23 best recollection?

24 A. Yes.

25 MS. CHEN: Will the translator please translate

1 paragraph seven.

2 (Translator translates the document)

3 BY MS. CHEN:

4 Q. This is truthful and accurate testimony based on your best  
5 recollection; is that correct?

6 A. Yes.

7 MS. CHEN: Finally, ask the translator to translate  
8 paragraph eight.

9 (Translator translates the document)

10 MS. CHEN: Yes.

11 Q. Again, is this truthful and accurate testimony based on  
12 your best recollection?

13 A. Yes.

14 Q. In paragraph eight of the document marked for  
15 identification as Exhibit 4, you describe receiving a power of  
16 attorney from Susanna, correct?

17 A. Yes.

18 Q. Can you describe what this power of attorney looked like.

19 A. A regular power of attorney indicated on it. I -- Susanna  
20 Demirchyan, Susanna Demirchyan. I'm sorry.

21 Q. What language was this in?

22 A. At that time it was in English. We had it translated  
23 there.

24 Q. Who is "we," sir?

25 A. Me.

1 Q. How did you get it translated?

2 A. You can do it in Armenia.

3 Q. Now, you state in your declaration that you went to the  
4 city hall in Yerevan, correct?

5 A. Yes.

6 Q. Did you live in Yerevan at that time?

7 A. Yes.

8 MS. CHEN: I'm going to ask the translator -- ask  
9 the -- strike that.

10 Q. Sir, you also state in paragraph eight that you filled out  
11 some paperwork in order to obtain Mr. Demirchyan's birth  
12 certificate, correct?

13 A. Yes.

14 Q. What kind of paperwork did you fill out?

15 A. My name, last name; where I live; the phone number of our  
16 apartment, in order for them to get in touch with me after it's  
17 prepared.

18 Q. Did you keep any copies of that paperwork?

19 A. No.

20 Q. Did they give you a receipt?

21 A. I didn't receive anything.

22 Q. Did you have to pay --

23 A. At that time there was no such receipts.

24 Q. Did you have to pay for the birth certificate?

25 A. We paid but it was a trivial fee for the state fee.

1 MS. CHEN: I'm going to ask the translator to  
2 translate for the witness paragraph nine.

3 (Translator translates the document)

4 THE WITNESS: Yes.

5 BY MS. CHEN:

6 Q. Ask you to turn to -- I believe there should be a copy at  
7 the witness stand -- what petitioner has labeled as  
8 Exhibit 109.

9 A. What is this?

10 Q. Do you recognize -- it's a two-page document, correct?

11 A. Yes.

12 Q. Turning to the second page, sir, is that in the Armenian  
13 language?

14 A. Yes.

15 Q. Is that the birth certificate you're referring to in  
16 paragraph nine?

17 A. Yes.

18 Q. Is that the exact certificate, quote, unquote, which you  
19 obtained from the city of Yerevan city hall?

20 A. Yes.

21 Q. You state it's the exact certificate, correct?

22 A. Yes.

23 Q. Did you look at the document that you picked up from the  
24 city hall?

25 A. Definitely, yes.

1 Q. Did you make a copy of it for yourself?

2 A. No.

3 Q. And, sir, looking at the document again, this is the  
4 Armenian version, you see that there's a number on the bottom,  
5 correct?

6 A. I see that there's a number.

7 Q. And you also see that there's different lines of notations  
8 in the Armenian language; is that correct?

9 A. Yes.

10 Q. Did you jot down any of the numbers or the notations on  
11 this document?

12 A. I did no notation.

13 Q. But you're sure this is the exact document you obtained in  
14 1997, 15 years ago, correct?

15 A. It's in my memory because the stamp here is not complete,  
16 and I asked them why isn't the stamp complete. They said  
17 because the ink isn't dry. We don't have ink.

18 Q. Ask you to turn to the first page of that two-page  
19 document, sir.

20 THE COURT: Before we proceed with the questioning, I  
21 observe in this affidavit, the alleged translation, there is no  
22 date on the affidavit.

23 When was this affidavit prepared? When did you sign  
24 this affidavit?

25 THE WITNESS: Which one?

1 THE COURT: The Exhibit 4, this declaration.

2 THE WITNESS: I can't remember the date exactly.

3 THE COURT: How long ago?

4 THE WITNESS: I can't remember.

5 THE COURT: Months ago?

6 THE WITNESS: Probably a few months ago, but I can't  
7 say exactly.

8 THE COURT: Was it this year?

9 THE WITNESS: This year, yeah.

10 THE COURT: How many months ago does he think it was?

11 THE WITNESS: I don't want to make a mistake.

12 THE COURT: He has no idea?

13 THE WITNESS: Approximately -- probably five, six  
14 months ago.

15 THE COURT: Okay. And before preparing this  
16 affidavit, when did you last see Exhibit 109?

17 THE WITNESS: The last time today that I see it now.  
18 I hadn't seen it otherwise.

19 THE COURT: Did he -- he saw the Exhibit 109 when he  
20 prepared this declaration; isn't that correct?

21 THE WITNESS: Yes, because I saw this -- this is the  
22 document I sent, yes.

23 THE COURT: But when did he see that document,  
24 Exhibit 104, before he saw it on the date that he signed the  
25 declaration? In other words, was it 15 years since he saw

1 the ...

2 THE WITNESS: I didn't see it beforehand. Why would  
3 I see it beforehand?

4 THE COURT: Is the answer he hasn't seen it since he  
5 obtained it in 2007 -- was it?

6 MS. CHEN: I believe it was 1997, Your Honor.

7 THE COURT: 1997.

8 THE WITNESS: No.

9 THE COURT: "No" meaning he hasn't seen it since  
10 1997?

11 THE WITNESS: No.

12 THE COURT: Okay. All right.

13 MS. CHEN: Thank you, Your Honor.

14 Q. Staying on the same topic, sir, did you sign this  
15 English-language document in front of anybody?

16 A. The document I signed?

17 Q. That's correct, sir.

18 A. Yes.

19 Q. Who did you sign it in front of?

20 A. His mother was there; his brother was there.

21 THE COURT: Anyone else?

22 THE WITNESS: I don't remember. I don't remember.  
23 The same people were there, but I don't remember.

24 BY MS. CHEN:

25 Q. Sir, do you remember where you signed this document at?



1 A. Where I signed the document? I don't remember exactly  
2 where it was.

3 THE COURT: Who prepared this document?

4 THE WITNESS: I was trying to say what I remember  
5 this document --

6 THE COURT: Who wrote it out? This is a translation.  
7 Who wrote it out in the Armenian language?

8 THE WITNESS: The notary.

9 THE COURT: The notary wrote out the declaration?

10 THE WITNESS: It was all prepared. They brought it  
11 to -- I don't know how it was prepared.

12 THE COURT: So, in other words, it was prepared for  
13 him to sign?

14 THE WITNESS: Yeah. It was prepared. I don't know  
15 who prepared it.

16 THE COURT: Did he discuss the contents of the  
17 declaration with anyone before he saw the declaration?

18 THE WITNESS: Of course. I signed it. I have to  
19 know what I'm signing.

20 THE COURT: Who did he discuss it with?

21 THE WITNESS: Whoever translated the document to me.

22 THE COURT: Who was that?

23 THE WITNESS: Not a relative.

24 THE COURT: Who is this -- do you know who Judith  
25 Prado is, the notary?

1 THE WITNESS: No, I don't know the notary.

2 THE COURT: There is a facial suspicion about this  
3 notary in that the -- a notary almost always says, This  
4 document was signed and subscribed before me on a certain date.  
5 That isn't present here in the stamp, and the declaration  
6 itself is undated. So this declaration -- and I'm just making  
7 the point for further comment -- is to me very suspicious.  
8 This is not the way things are notarized, and declarations have  
9 a date, and just putting a stamp on a document is not the way  
10 that notaries do things because the stamp means nothing. It's  
11 the notary's statement that the signature was signed and  
12 subscribed before me. So this declaration, to me, is, as the  
13 fact finder, is highly suspicious. That doesn't mean that I  
14 should necessarily reject the contents, but the declaration is.

15 Go ahead.

16 MS. CHEN: Yes, Your Honor. Thank you.

17 I'm going ask the translator to translate, while  
18 we're here, paragraph ten to the witness.

19 (Translator translates the document)

20 THE WITNESS: Yes.

21 BY MS. CHEN:

22 Q. Does paragraph ten of the document marked for  
23 identification as Exhibit 4, is it your truthful and accurate  
24 testimony based on your best recollection?

25 A. Yes.

1 Q. Sir, did you in fact go to the city hall in Yerevan to go  
2 pick up the birth certificate?

3 A. Yes.

4 Q. Did you present any documentation to them to know that you  
5 were in fact the right person to give that birth certificate  
6 to?

7 A. I showed my passport, my name and last name is written  
8 there.

9 Q. At this point, had you already paid for the copy of the  
10 birth certificate?

11 A. Yes.

12 Q. You stated there were no receipts back then, correct?

13 A. Uh-huh.

14 MS. CHEN: I'm going to ask the translator to  
15 translate for the witness paragraph 11 of the document marked  
16 for identification as Exhibit 4.

17 (Translator translates the document)

18 THE WITNESS: Yes.

19 BY MS. CHEN:

20 Q. Again, paragraph 11, that's your entirely truthful and  
21 accurate testimony based on your best recollection?

22 A. Yes.

23 Q. Since it's the --

24 THE COURT: You're speaking too quickly.

25 MS. CHEN: I apologize, Your Honor.

1 Ask the translator to translate paragraph 12 or the  
2 witness.

3 (Translator translates the document)

4 THE WITNESS: How is that here?

5 THE INTERPRETER: Your Honor, may I read it again?  
6 He is asking me to read it again.

7 THE COURT: Yes.

8 (Translator translates the document)

9 THE WITNESS: What is not written here: I went to  
10 see Hovhanness, his cousin. We went --

11 THE COURT: No question pending. Just asked for --  
12 he translated paragraph 12. Now there should be a question, if  
13 you have one.

14 MS. CHEN: Yes, Your Honor.

15 Q. Now that paragraph 12 has been translated for you, sir,  
16 does it represent your truthful and accurate testimony based on  
17 your best recollection?

18 A. We sent it, yeah.

19 Q. Sir, so I understand your testimony, you obtained the  
20 birth certificate that is Petitioner's Exhibit 109, correct?

21 A. Yes.

22 Q. You then found out about a person who was traveling to the  
23 United States, correct?

24 A. Yes.

25 Q. What city was this person traveling to in the United

1 States?

2 A. From what I remember, United States -- they were going to  
3 come to Hollywood.

4 Q. How did you find out this person was coming to Hollywood?

5 A. At that time we were asking around who knows someone. At  
6 that time Arutyan's cousin, Hovhanness, he said there's someone  
7 who is going.

8 Q. Sir, just looking at your declaration -- again paragraphs  
9 11 and 12 -- nowhere in there does it mention a cousin,  
10 correct?

11 A. That's correct.

12 Q. Sir, did you appear for this court appearance this  
13 morning? In other words, did you come to this building this  
14 morning?

15 A. Yes.

16 Q. Have you spoken with any of the attorneys or any of the  
17 witnesses present prior to coming at 1:15?

18 MR. KURZBAN: Objection, Your Honor. It's vague. I  
19 don't know if it means today or any time ever or ...

20 THE COURT: What do you -- what is your question?

21 MS. CHEN: I'll clarify, Your Honor, hopefully.

22 Q. Between the time that you first came to the building this  
23 morning and the time you took the stand today at 1:15, have you  
24 spoken to anybody here in the courtroom, including  
25 Mr. Demirchyan's attorneys, about your testimony you're

1 presenting right now?

2 A. I haven't spoken to anything.

3 Q. Have you spoken to Mr. Demirchyan himself?

4 MR. KURZBAN: Objection, vague. Again, unless it  
5 means today.

6 THE COURT: Well, is that what you mean?

7 BY MS. CHEN:

8 Q. Again, Your Honor, between the time you came to the  
9 building this morning and coming, sitting in the stand at  
10 1:15 p.m., have you spoken with Mr. Demirchyan about your  
11 testimony you are presenting right now?

12 A. No.

13 Q. Paragraph 12, sir, states that soon after receiving the  
14 birth certificate, you found out about this person coming to  
15 Hollywood, correct?

16 A. Yes.

17 Q. Do you remember the name of this person, first of all?

18 A. No.

19 Q. Can you describe this person?

20 A. No.

21 Q. Because it was 15 years ago?

22 A. It didn't -- not like that. It just didn't impress me.

23 Q. You stated in your paragraph 12 of your declaration that  
24 you met this person at the airport, correct?

25 A. Not at the airport. At their home. We went to their home

1 as guests.

2 Q. I'm sorry. You met this person at their home?

3 A. Yes.

4 Q. And do you recall where they lived?

5 A. Well, I remember, but now that street is torn down, there  
6 are other buildings built.

7 Q. Was that the city of Yerevan, sir?

8 A. Yes.

9 Q. Sir, when did you first realize or know that  
10 Mr. Demirchyan was in deportation proceedings? Were you aware  
11 of that?

12 A. I don't remember. I don't remember the date or the time.

13 Q. And when were you first -- when did you first know you  
14 were going to be asked to testify today?

15 A. A few days ago.

16 MS. CHEN: I have no further questions, Your Honor.

17 THE COURT: When were present counsel retained in  
18 this case?

19 MR. HOFFMAN: Two years ago, during the Ninth Circuit  
20 case.

21 THE COURT: When was that?

22 MR. HOFFMAN: That was -- do you have the exact date?

23 MR. KURZBAN: It was in 2011 sometime.

24 Your Honor, I can -- if Your Honor is interested, we  
25 can proffer who -- it wasn't one of us who worked with him, but

1 another attorney did speak with him about the background, and  
2 that attorney is present here today, if Your Honor had any --

3 THE COURT: Who is that person?

4 I'd like to interrupt this interrogation to ask that  
5 lawyer some questions.

6 MR. KURZBAN: I'm sorry, Your Honor?

7 THE COURT: I want to interrupt, just for a moment,  
8 to have the witness step down. I want that lawyer to take the  
9 stand.

10 THE WITNESS: Should I go outside?

11 THE COURT: No.

12 THE CLERK: Raise your right hand.

13 (Witness sworn)

14 THE WITNESS: I do.

15 THE CLERK: State your full name and spell it for the  
16 record.

17 THE WITNESS: My full name is Robert Perkins,  
18 P-e-r-k-i-n-s.

19 THE COURT: Mr. Perkins, I want to ask you about the  
20 declaration of Asatur -- do I say his name is -- Guyumjyan, is  
21 that the way you say it, "Guyumjyan"?

22 THE WITNESS: Guyumjyan, Your Honor.

23 THE COURT: Guyumjyan.

24 MR. HOFFMAN: Yes, Your Honor.

25 THE COURT: And that I think is Exhibit 4 in this



1 case.

2 Did you prepare this declaration?

3 THE WITNESS: I did, Your Honor.

4 THE COURT: You did? Are you Armenian speaking?

5 THE WITNESS: I'm not. I prepared it with the  
6 assistance of a translator, Your Honor.

7 THE COURT: I see. And the -- this translation which  
8 is Exhibit 4, who did that translation? Was it the translator?

9 THE WITNESS: Into English, Your Honor?

10 THE COURT: Yes.

11 THE WITNESS: The way that I did it was I had asked  
12 the questions to the client, took notes in English, the  
13 translator translated the responses, and I sent the final  
14 version to the client in English to go over with the  
15 translator.

16 THE COURT: And who was the translator?

17 THE WITNESS: Her name is Angie Markosyan.

18 THE COURT: And is she a professional translator? In  
19 other words, is she a certified translator?

20 THE WITNESS: I know she is very fluent, Your Honor.  
21 I practice immigration law exclusively and the regulations are  
22 the person has to be -- has to certify that they are fluent in  
23 both languages.

24 THE COURT: So she works as a translator?

25 THE WITNESS: Her primary job is a hearing officer

1 for the DMV, but she is very fluent, from what I understand.

2 THE COURT: But you use her for translation purposes?

3 THE WITNESS: I used her in this case for several  
4 translations, Your Honor.

5 THE COURT: I see. Now, there is a stamp of a  
6 notary, Judith Prado. Do you know who that is?

7 THE WITNESS: I don't, Your Honor.

8 THE COURT: And when this document was signed, were  
9 you present?

10 THE WITNESS: I was not present, Your Honor.

11 THE COURT: And when, approximately, was this  
12 declaration first prepared in the Armenian language?

13 THE WITNESS: Your Honor, I prepared it in English  
14 with a bunch of them around August of, I believe, 2011, when we  
15 submitted several affidavits.

16 THE COURT: All right. Let's have the other witness  
17 take the stand. What's his name?

18 MR. KURZBAN: Your Honor?

19 THE COURT: Yeah.

20 MR. KURZBAN: I just want to point out one thing. On  
21 the declaration, as you know, under the federal rules, you  
22 don't need a notary. If you say, I declare under penalty of  
23 perjury the laws of the United States under 28 U.S.C. -- I  
24 think it's 14.

25 MR. HOFFMAN: 1746.

1 MR. KURZBAN: Yeah. That that's sufficient. Now, I  
2 don't know if that's what happened and then it was notarized.

3 THE COURT: That may be, but this is highly  
4 irregular, and, you know, sometimes you can do too much. That  
5 affects your credibility.

6 Let's have the -- Asatur come back.

7 Do you have a few questions about this?

8 MR. HOFFMAN: Yes, Your Honor. Because of the  
9 court's concern with this document, I would like to take him  
10 through some questions with the court's indulgence.

11 THE COURT: Okay.

12 **ASATUR GUYUMJYAN; PETITIONER'S WITNESS, PREVIOUSLY SWORN,**

13 **TESTIFIED**

14 **REDIRECT EXAMINATION**

15 BY MR. HOFFMAN:

16 Q. What is your relationship to Mr. Demirchyan?

17 A. Friends, neighbors.

18 Q. When you say neighbor, what do you mean by neighbor?

19 A. We live next to each other.

20 Q. Where?

21 A. In Armenia.

22 Q. Okay. Has anybody paid you anything to testify today?

23 A. No.

24 Q. Did anybody pay you anything to write this affidavit?

25 A. No.

1 Q. Or given you anything of value?

2 A. No.

3 Q. Or promised you anything?

4 A. No, no.

5 Q. And what was your profession, your job in Armenia? What  
6 was your job?

7 A. I worked for the police. The police officer.

8 Q. Okay. Now, do you see Exhibit 109? Do you have it in  
9 front of you?

10 A. Yes.

11 Q. Okay. And do you recognize that document?

12 A. The first one or the one behind it?

13 Q. The actual Armenian document.

14 A. Yes.

15 Q. Okay. And that is the document that you obtained for  
16 Mr. Demirchyan?

17 A. Yes.

18 Q. Okay. And were you contacted by anyone to obtain that  
19 document?

20 A. Whoever sent me the papers for me to go get Susanna.

21 Q. Okay. And what year was that when she contacted you?

22 A. Probably the winter of '96.

23 Q. Okay. And did she contact anyone else, to your knowledge?

24 A. Yeah, before then, she contacted Lucine.

25 Q. Okay. And who is Lucine?

1 A. Another neighbor across the way.

2 Q. Okay. And what happened to Lucine?

3 A. Lucine hung herself.

4 Q. Okay. What was the reason given, if any, for needing the  
5 document?

6 MS. CHEN: Objection, Your Honor, calls for hearsay.

7 THE COURT: Sustained.

8 BY MR. HOFFMAN:

9 Q. Okay. Did you know why you were told to obtain the  
10 document?

11 A. Probably they lost it.

12 Q. Okay. Did you have any conversations with Lucine or  
13 Lusineh?

14 A. Lucine was deceased already.

15 Q. Okay. Were you given any documents -- strike that.

16 Were you provided any documents to enable you to  
17 obtain this birth certificate?

18 A. Yes.

19 Q. And what was that?

20 A. The power of attorney that was sent to me from the United  
21 States by Susanna.

22 Q. Okay. And what did you do with that document? I'm sorry.

23 What did you do with that power of attorney?

24 A. I took it to the city where you get the registration and  
25 the certificate.

1 Q. Which city?

2 A. In Yerevan.

3 Q. Okay. And which particular location, which office?

4 A. The region of Shahumyan.

5 Q. What is the name of the office?

6 A. That's for marriage and birth. It's for the region of  
7 Shahumyan, for that area.

8 Q. Okay. How long did it take you to get this document, the  
9 1997 birth certificate?

10 A. I got it in '97 -- probably summer or spring -- I can't  
11 remember the months.

12 Q. In what year?

13 A. '97.

14 Q. '97. Then what did you do with it after you obtained it?

15 A. I called Susanna.

16 Q. Okay. Then what happened?

17 A. I said I received it.

18 Q. What did you do with it?

19 A. I got the certificate. I went to Hovhannes to ask who we  
20 can send it with as a tourist.

21 Q. Okay. Why did you contact Hovhannes?

22 A. Because Susanna had called --

23 THE COURT: Who is Hovhannes again?

24 MR. HOFFMAN: You want me to answer?

25 THE COURT: Is that Khachanyan?

1 MR. HOFFMAN: Yes.

2 THE COURT: Why don't we refer to someone of the same  
3 name consistently. These names are difficult enough as it is.

4 MR. HOFFMAN: My apologies.

5 THE COURT: Let's use the last name.

6 MR. HOFFMAN: I had trouble pronouncing the last  
7 name, Your Honor, so I --

8 THE COURT: Isn't it Khanachyan?

9 MS. CHEN: I believe so, Your Honor.

10 MR. HOFFMAN: Khachanyan?

11 THE COURT: Khachanyan.

12 MR. HOFFMAN: Okay. I apologize, Your Honor.

13 Q. Why did you contact Mr. Khachanyan?

14 A. Before that, Hovhannes -- had called Hovhannes for him to  
15 find someone.

16 THE COURT: Hovhannes is Mr. Khachanyan, right?  
17 Speak to him in that way. Don't use his first name.

18 THE WITNESS: Khachanyan.

19 MR. HOFFMAN: Okay.

20 Q. So did you then contact Mr. Khachanyan?

21 A. Yes.

22 Q. And did he then take that document somewhere?

23 MS. CHEN: Objection, Your Honor, lack of personal  
24 knowledge, lack of foundation.

25 THE COURT: Sustained.

1 MR. HOFFMAN: Okay.

2 Q. Did you provide any instructions to Mr. Khachanyan?

3 A. Mr. Khachanyan, we went and gave the paper to that person.

4 Q. Okay. What do you mean by "that person"?

5 A. To the person coming here, the tourist.

6 Q. Okay.

7 MS. CHEN: Objection, Your Honor, move to answer --  
8 move to strike the answer. Again based on hearsay.

9 THE COURT: Well, I think he's testified -- unless I  
10 misunderstood -- that he was present with Khachanyan when the  
11 papers were given to this unnamed tourist.

12 Is that correct?

13 THE WITNESS: How is that?

14 THE COURT: That -- was Mr. Guyumjyan present with  
15 Mr. Khachanyan when Exhibit 109 was given to the tourist for  
16 transportation to the United States?

17 THE WITNESS: Yeah, because Khachanyan had found the  
18 tourist.

19 THE COURT: Was he present when the document was  
20 actually given to the tourist?

21 THE WITNESS: Khachanyan and I went and handed over  
22 to the tourist. I was there.

23 THE COURT: All right. That's what I understood.

24 MR. HOFFMAN: That's my understanding.

25 Q. Did you confirm that it was received in the United States?



1 A. Susanna called and said thank you, that she had received  
2 it --

3 MS. CHEN: Objection, Your Honor, hearsay.

4 THE COURT: Overruled.

5 MR. HOFFMAN: Thank you, Your Honor. No further  
6 questions.

7 THE COURT: I have one question: Has either side  
8 introduced the power of attorney in evidence?

9 MS. CHEN: Your Honor, we've never seen the power of  
10 attorney.

11 THE COURT: Has the petitioner?

12 MR. KURZBAN: I don't think there's any copy. He  
13 turned it in as part of the process of getting the birth  
14 certificate.

15 THE COURT: So there is no copy of it?

16 MR. KURZBAN: There is no copy.

17 THE COURT: All right. You can step down -- do you  
18 have any further questions?

19 MS. CHEN: For this witness, no, Your Honor.

20 THE COURT: Thank you, sir.

21 Call the next witness.

22 MS. CHEN: Your Honor, I believe the last witness is  
23 Zara Hovanisyan. For the court reporter, it's Z-a-r-a, last  
24 name is H-o-v-a-n-i-s-y-a-n.

25 Your Honor, while the witness is coming to the stand,

1 may I give to your court clerk two copies of the declaration --

2 THE COURT: Yes.

3 MS. CHEN: -- along with the exhibits, I believe,  
4 attached to it?

5 THE COURT: Yes.

6 MS. CHEN: Thank you, Your Honor.

7 MR. KURZBAN: Your Honor --

8 THE COURT: Yes.

9 MR. KURZBAN: If I may, you know, prior to the break,  
10 you had raised a significant question about whether or not we  
11 had any secondary proof of Susanna's trip to --

12 THE COURT: Right.

13 MR. KURZBAN: -- and we found it. Apparently, we  
14 have a -- we have her ticket, her airline ticket, we have a  
15 letter from her -- the former lawyer for Mr. Demirchyan,  
16 Mr. Crow. I don't know how you want to handle that.

17 THE COURT: Well, I guess unless those documents are  
18 contested, she ought to be recalled.

19 MS. CHEN: Your Honor, may I actually -- I've never  
20 seen these documents. May I take a look?

21 THE COURT: Yes. You don't have to do it right now.  
22 Let's turn to this witness.

23 MS. CHEN: Yes, Your Honor.

24 THE COURT: The witness will please step forward and  
25 stand behind the court reporter.

1 Please raise your right hand.

2 (Witness sworn)

3 THE WITNESS: Yes.

4 THE CLERK: Please be seated.

5 State your full name and spell it for the record.

6 THE WITNESS: Zara Hovanisyan. Z-a-r-a,

7 H-o-v-a-n-i-s-y-a-n.

8 MS. CHEN: And, Your Honor, if I may have the --  
9 Ms. Hovanisyan's declaration along with what were attached to  
10 it and submitted by petitioner marked for identification as  
11 Exhibit 5, I believe.

12 THE COURT: Yes.

13 MS. CHEN: Thank you, Your Honor.

14 **ZARA HOVANISYAN; PETITIONER'S WITNESS, SWORN, TESTIFIED:**

15 **DIRECT EXAMINATION BY DECLARATION**

16 **CROSS-EXAMINATION**

17 BY MS. CHEN:

18 Q. Ms. Hovanisyan, can you read and write English?

19 A. A little.

20 Q. I'm going to ask you to turn to the first page that has  
21 been marked for identification as Exhibit 5.

22 A. Should I read?

23 Q. Ma'am, do you recognize that document?

24 A. Yes. My signature is there.

25 Q. Ma'am, do you -- can you read that declaration which is in

1 the English language?

2 A. Yes, I think so.

3 Q. Well, let me ask you this, ma'am: That you recognize that  
4 as your signature, correct?

5 A. Yes.

6 Q. And do you remember signing it on August 22nd, 2011?

7 A. Yes, last year.

8 Q. Did you sign this English-language document after reading  
9 all six paragraphs listed in this document?

10 A. Yes.

11 Q. Did you have a translator translate it for you prior to  
12 signing this English-language document?

13 A. Yes.

14 MS. CHEN: Your Honor, just for the record, this  
15 declaration suffers from the same issue as Mr. Guyumjyan's,  
16 which is there is no translator certificate, although  
17 Ms. Hovanisyan has stated she can read some English.

18 THE COURT: Well, I recognize the deficiency, but  
19 let's get to the substance of what she says.

20 MS. CHEN: Yes, Your Honor.

21 Q. Ms. Hovanisyan, you recognize that paragraph six is a  
22 declaration under penalty of perjury, correct?

23 A. Yes.

24 Q. And based on your knowledge and ability to read English,  
25 as well as your testimony today that this document was

1 translated to you in the Armenian language before you signed  
2 it, is it your understanding that what is contained in this  
3 document is truthful and accurate testimony based on your best  
4 recollection?

5 A. Yes.

6 Q. Now, in paragraph two of this document marked for  
7 identification as Exhibit 5, specifically the declaration, you  
8 state that you worked in the archives from 1978 to 1983,  
9 correct?

10 A. Yes.

11 Q. And you've provided what you've described as a workbook,  
12 correct?

13 A. Yes.

14 Q. I'm going to ask you to turn to the second page of  
15 Exhibit 5, which is the page after your declaration.  
16 Specifically, ma'am, the top of the page says "Workbook of Zara  
17 Hovanisyan," correct?

18 A. Yes.

19 Q. How did you obtain this workbook?

20 A. I work. You get a workbook for your work.

21 Q. And who issues this workbook to you?

22 A. The director of the division of the recorders.

23 Q. And looking at this document, ma'am, it says at the  
24 very -- it says, "Issue date of workbook: October 11th, 1971,"  
25 correct?

1 A. 10/1/71, yes. That's the issue date.

2 Q. And, ma'am, looking at this document, on the right-hand  
3 side, it starts off with information about work experiences.

4 Do you see that?

5 A. Yes.

6 Q. Do you see the second entry, ma'am, it says, from, to,  
7 April 12th, 1978 to January 18th, 1983?

8 A. Yes, I see it.

9 Q. And that's the main Archival Department of Ministers of  
10 Armenian SSR Limits.

11 Is that the archives you're referencing in your  
12 declaration to paragraph two?

13 A. Yes.

14 Q. And who would have -- who completed entry No. 2 relating  
15 to the archival portion of this document?

16 THE COURT: I don't understand the question.

17 MS. CHEN: I'll clarify, Your Honor.

18 Q. Ms. Hovanisyan, looking at the entry No. 2, again that  
19 references your work experience with the archives; is that  
20 correct?

21 A. Yes.

22 Q. When was this entry completed?

23 A. From '78, 4/12/78.

24 Q. And who completed it?

25 THE INTERPRETER: Your Honor, may interpreter clarify

1 a question with counsel?

2 THE COURT: Yes.

3 THE INTERPRETER: I'm not sure what counsel means,  
4 whether she means completed in the original book or workbook  
5 or ...

6 THE COURT: I don't understand why there's a notary  
7 stamp on here. Why is there a notary stamp on here? It makes  
8 no sense at all. What is the notary notarizing? Is that your  
9 signature on the bottom left-hand part of this document?

10 THE WITNESS: No, this is not mine.

11 THE COURT: Have you signed this document in any  
12 place?

13 THE WITNESS: On this you mean?

14 THE COURT: Has she signed this page?

15 THE WITNESS: No.

16 THE COURT: These are somewhat bizarre submissions  
17 with these strange notaries, which don't appear to be relevant  
18 or required. But why they're here -- I would like some  
19 explanation at some point. Maybe not right now.

20 Now, so my understanding is that this exhibit, which  
21 is attached to -- which is part of Exhibit 5 following the  
22 one-page declaration, it's actually page two, is a workbook of  
23 Zara Hovanisyan.

24 Did you prepare this document? This is page two of  
25 Exhibit 5.

1 THE WITNESS: The translation?

2 THE COURT: Well, the document. This is a  
3 translation of something that was in Armenian, correct?

4 THE WITNESS: Yes, in Armenian.

5 THE COURT: Is the Armenian version of what is Page 2  
6 of Exhibit 5 found somewhere in Exhibit 5?

7 THE INTERPRETER: Interpreter is having trouble. She  
8 is very soft-spoken.

9 THE COURT: Yes. Speak up, ma'am.

10 THE WITNESS: This is the document of the -- from '78  
11 to '83.

12 THE COURT: This is Page 2 --

13 THE WITNESS: The archive.

14 THE COURT: -- on Exhibit 5, it's in the English  
15 language. My understanding is that this document is a  
16 translation from a document that was originally in the Armenian  
17 language; is that correct?

18 THE WITNESS: Yes, Armenian.

19 THE COURT: And is the version of Page 2 of Exhibit 5  
20 found somewhere in Exhibit 5 in the Armenian language?

21 THE WITNESS: In Armenian?

22 No, there isn't.

23 THE COURT: Did you produce the workbook of Zara  
24 Hovanisyan as found in Page 2 of Exhibit 5?

25 THE INTERPRETER: I'm sorry, Your Honor. Interpreter



1 is having trouble hearing her.

2 THE COURT: You have to speak up, ma'am. Now look at  
3 me. We have to hear you. So you must speak up. You're  
4 ordered to speak up. Louder. Let me hear you speak louder.

5 THE WITNESS: Okay.

6 THE COURT: Louder.

7 THE WITNESS: Okay.

8 THE COURT: Where did this come from?

9 THE INTERPRETER: Referring to Page 2, Your Honor?

10 THE COURT: Yes.

11 THE WITNESS: This is from the workbook?

12 THE COURT: What workbook? I mean, where did it come  
13 from? Did she produce it?

14 THE WITNESS: Yes. These are the copies, yes.

15 THE COURT: Where did she get it from?

16 THE WITNESS: The workbook?

17 THE COURT: Yes.

18 THE WITNESS: I got the workbook from the place where  
19 I work, the given place where I work.

20 THE COURT: When did she get it?

21 THE WITNESS: Eleven -- the tenth month in '71, 1971.

22 THE COURT: As I read this workbook section of  
23 Exhibit 5, you worked in the Main Archival Department of  
24 Ministers of Armenian SSR Limits from April 12th, 1978 to  
25 January 18th, 1983; is that correct?

1 THE INTERPRETER: Witness is answering before the  
2 interpreter can finish the interpretation, Your Honor.

3 THE COURT: Yes. So answer again.

4 THE WITNESS: Yes. From 1978 to 1983, I worked at  
5 the archival administration.

6 THE COURT: And is your testimony today regarding  
7 your familiarity with stamps of the ministry based upon your  
8 work experience from that period, that is, 1978 to 1983?

9 THE WITNESS: Yes.

10 THE COURT: All right.

11 MS. CHEN: Your Honor, if I may proceed?

12 THE COURT: Yes.

13 MS. CHEN: Thank you, Your Honor.

14 Q. Ma'am, moving to paragraph three of your declaration, you  
15 described your duties at the archives, and you state that  
16 you're responsible for keeping official records of meetings,  
17 orders and directives of the government and communist party; is  
18 that correct?

19 A. Yes.

20 Q. You state later on, in paragraph three, the last sentence,  
21 "The division which kept official records of births, deaths and  
22 other vital statistics was in the same building as ours and  
23 part of the archives as well."

24 Is that accurate and truthful?

25 THE INTERPRETER: Your Honor, interpreter did not get

1 to finish -- witness answered and did not hear the last part of  
2 the counsel's question.

3 THE COURT: I don't know why you ask that question.  
4 I mean, what is she supposed to answer, that she's lying? I  
5 mean, what do you expect her answer to be?

6 MS. CHEN: I have a follow-up question.

7 THE COURT: Well, then, start with the follow-up.

8 MS. CHEN: Yes, Your Honor.

9 Q. Ma'am, you never actually dealt with birth certificates as  
10 part of your duties; isn't that right?

11 A. I've had contact, but the birth certificates were in  
12 another division.

13 Q. And you don't have -- you were never asked to authenticate  
14 birth certificates as part of your duties; is that correct?

15 A. Yes.

16 Q. You don't have any training in that; is that correct?

17 A. Yes.

18 Q. Now, turning to paragraph five, you state that you  
19 recognize the 1997 birth certificate as consistent with the one  
20 issued by the Armenian government.

21 And just to be clear we're talking about the same  
22 one, I'm going to ask that you look at Petitioner's Exhibit  
23 marked 109. That is a two-page document. I'm going to ask you  
24 to turn to the second page.

25 A. May I answer? Can I answer?

1 Q. Ma'am, the question is: Do you recognize that document?

2 A. Yes.

3 Q. Is that the document you're referring to as a 1997 birth  
4 certificate you believe to be consistent with ones issued by  
5 the Armenian government?

6 A. Yes.

7 Q. Now, as you state in your declaration, the seal is faded,  
8 correct?

9 A. Yes.

10 Q. But you believe the shape of the marking is exactly the  
11 type, I believe you stated, used by Armenian government,  
12 correct?

13 A. Yes, its place and its form.

14 Q. And you state also that the symbols, the language and the  
15 layout are all exactly the same as that used by the Armenian  
16 government?

17 A. Yes.

18 Q. Aren't there, in fact -- isn't it actually true that there  
19 are a lot of different stamps used based on what province or  
20 region the person is born in?

21 A. I didn't understand.

22 Q. Ma'am, is your daughter Angie Markosyan?

23 A. Yes.

24 Q. She, in fact, lives with you, correct?

25 A. Yes.

1 Q. And she is, in fact -- strike that.

2 She, in fact, knows Mr. Demirchyan; isn't that right?

3 A. Yes.

4 Q. In fact, she is dating Mr. Demirchyan; isn't that right?

5 A. As a friend.

6 THE COURT: Is that the woman who was identified  
7 before by Mr. Perkins?

8 MS. CHEN: Yes, Your Honor.

9 THE WITNESS: Yes.

10 MS. CHEN: I have no further questions, Your Honor.

11 THE COURT: All right.

12 **REDIRECT EXAMINATION**

13 BY MR. HOFFMAN:

14 Q. Ms. Hovanisyan, what is your relationship to  
15 Mr. Demirchyan?

16 A. Mr. Demirchyan is my former son-in-law's friend.

17 Q. Okay. And how long have you known the petitioner?

18 A. Close to two years.

19 Q. Okay. And who contacted you about this case?

20 A. Contacted me?

21 Q. Yes.

22 A. Demirchyan, Arutyun.

23 Q. Okay. And were you promised any payment for your  
24 testimony today?

25 A. No, no.

1 Q. Were you promised any payment for your affidavit that you  
2 wrote?

3 A. No.

4 Q. Okay. Do you have the original of the workbook that  
5 Ms. Chen asked you about? Did you bring that with you today?

6 A. Should I present -- yes, I have it.

7 Q. You have it here today with you?

8 A. Yes.

9 Q. And does that workbook -- is that photocopy in Exhibit  
10 No. 5 that the court has identified?

11 THE COURT: That's what I asked her myself.

12 MR. HOFFMAN: I didn't hear you ask her if it was an  
13 original.

14 THE COURT: Yes, I did. I asked her if what was page  
15 2 of Exhibit 5 in the English language was found in the  
16 Armenian language in another part of Exhibit 5, and that's what  
17 you're asking.

18 MR. HOFFMAN: I'm asking her whether -- it's a little  
19 different what I'm asking, Your Honor. What I'm asking is the  
20 original workbook that she is holding in her hand, I'm going to  
21 ask is that reflective of the translation that we have here.  
22 Because there may have been a problem with the photocopies. I  
23 don't know why -- what her answer is going to be.

24 THE COURT: Let's take ten minutes.

25 (Recess)

1 THE COURT: You may continue.

2 MR. HOFFMAN: Yes, Your Honor.

3 Q. At the time of your affidavit in August 2011, was your  
4 daughter, at that time, in a personal relationship with  
5 Mr. Demirchyan?

6 A. No.

7 Q. Okay. You testified about your experience. Can you be  
8 very specific, what experience do you have with Armenian  
9 documents?

10 A. Experience?

11 Q. Can you testify about your work experience?

12 A. I worked as a preserver of -- the archival fund preserver.

13 Q. And what years was that?

14 A. From '78 to '83.

15 Q. Okay. And did you work in a particular suboffice in the  
16 archives?

17 A. Yes.

18 Q. And what did that suboffice do?

19 A. One minute.

20 We basically dealt with the maintenance of documents.  
21 We would record them or register them, and then transfer them  
22 to the archives.

23 Q. Okay. And what type of documents specifically did you  
24 come into contact with?

25 A. We would also cultivate significant people's documents.

1 Q. Okay. For the court's clarification, what is a workbook?

2 A. In the workbook is written the years a person has worked  
3 and -- may interpreter ask her to repeat the beginning?

4 THE COURT: Yes.

5 THE WITNESS: The positions the person had and where  
6 they worked.

7 BY MR. HOFFMAN:

8 Q. And is that required of everyone?

9 A. Yes.

10 Q. Okay. Now, just to be clear, Ms. Chen asked you about  
11 Page 2 of Exhibit 5.

12 Just to be clear: Is that a translation of a portion  
13 of your workbook?

14 A. One minute.

15 Yes.

16 Q. Okay. And are the photocopies after that translation, do  
17 they relate to the periods when you were working in the  
18 archives?

19 A. Yes. This is a copy of my basic workbook.

20 Q. Okay. And do you have the original today in case the  
21 court needs or the government needs to see the original?

22 A. Yes.

23 Q. Okay. Did you receive any special education or training  
24 for that job in Armenia with the archives?

25 A. In the archives, we're dealing with documents with my work



1 experience. I acquired that during my work.

2 Q. Okay. Did you have any education?

3 A. Yes. I studied at a vocational school. My specialized  
4 education was a worker.

5 THE INTERPRETER: May interpreter clarify the term,  
6 Judge?

7 THE COURT: Yes.

8 THE INTERPRETER: Thank you.

9 THE WITNESS: Where we organized the work of  
10 documents -- working with documents.

11 MR. HOFFMAN: Okay.

12 Q. Did you receive a degree for that?

13 A. Yes.

14 Q. Okay. I'd like to show you the 1997 birth certificate,  
15 which is Exhibit 109.

16 Have you seen that document before?

17 A. They showed me this last year.

18 Q. Okay. And does it appear to be a genuine document, in  
19 your experience?

20 MS. CHEN: Objection, Your Honor, calls for a legal  
21 conclusion and expert testimony.

22 THE COURT: Overruled.

23 THE INTERPRETER: May interpreter have the question  
24 again?

25 MR. HOFFMAN: Yes.

1 Q. Does this appear to be a genuine document in your  
2 experience?

3 A. Yes.

4 Q. Can you specifically tell me what you base that on?

5 A. This is a form of an Armenian birth certificate, Republic  
6 of Armenia, because it's only written in Armenian. There's the  
7 coat of arms of the country, of Armenia. The stamp, which  
8 is -- doesn't show clearly, probably was dry, and the serial  
9 number that has the -- the document has the number.

10 Q. Okay.

11 A. Can I say something else?

12 Q. Is she finished?

13 Are you finished?

14 A. No, not yet.

15 And here it shows the place where it was issued and  
16 by -- the signature by whom.

17 Q. Okay. What place was it issued?

18 A. City of Yerevan, the ZAGS Division.

19 Q. Okay. Does it have any official language certifying that  
20 this was done according to Armenian law?

21 MS. CHEN: Your Honor, objection, the document speaks  
22 for itself.

23 THE COURT: Well, she's -- you're asking her --

24 MR. HOFFMAN: In Armenian, not the translation, Your  
25 Honor.

1 THE COURT: All right. She can answer.

2 THE INTERPRETER: May interpreter have the question  
3 again, please?

4 MR. HOFFMAN: Yes.

5 Q. In Armenian, looking at the Armenian version, is there any  
6 official language certifying or reciting that this is according  
7 to law?

8 A. Yes.

9 Q. And can you -- looking at the Armenian, can you read that  
10 or provide that language at this time?

11 A. Should I read the whole thing?

12 Q. No. The language that you just testified was an official  
13 recitation.

14 A. City of Yerevan, Shahumyan area, ZAGS Division.  
15 Certificate is issued in '97, April 29th. Civil residence, law  
16 division head, and the serial number of the document.

17 Q. Okay. In Armenian, does it state that it's according to  
18 law?

19 A. Here that it's written that the division head has signed  
20 it.

21 MS. CHEN: Your Honor, the government does object to  
22 this line of questioning on the grounds that there is an  
23 English translation of the Armenian --

24 MR. HOFFMAN: I'm getting it. I'm getting it.

25 THE COURT: Well, then, why, if there is an English

1 translation, why is she translating the document?

2 MR. HOFFMAN: I'm getting to the English translation  
3 because --

4 THE COURT: Is there something about the English  
5 translation that --

6 MR. HOFFMAN: Yes, Your Honor.

7 THE COURT: Why don't you get to that.

8 MR. HOFFMAN: I'll move to the English translation,  
9 Your Honor.

10 THE COURT: Yes.

11 MR. HOFFMAN: Okay.

12 Q. Now, if you would direct your attention to the English  
13 translation, which is the first page of Exhibit 209, please.

14 Okay. Having looked at the Armenian document, is  
15 there anything wrong or incomplete about this English  
16 translation?

17 A. No. This corresponds completely.

18 Q. Okay. Is there a signature on the English translation?

19 A. Certified by the notary, there is.

20 Q. But besides the notary, is there a signature?

21 A. Here it's only written "Department of Zaga," it's not  
22 indicated here.

23 Q. It's not indicated -- what's not indicated?

24 A. Only the signature.

25 Q. And can you tell who the signature is by in the original

1 Armenian?

2 A. It's a very short signature. That's why it's not clear.

3 Q. But can you tell who it was by, the title of the person?

4 A. The ZAGS Division, head of ZAGS Division.

5 Q. The head of the ZAGS Division. Is that what she said?

6 A. Yes, whoever places the stamps, who stamps it.

7 Q. Okay. Now, you said it was issued April 29th, 1977. Is  
8 it unusual -- I'm sorry -- 1997, excuse me -- is it unusual to  
9 have a later-acquired birth certificate?

10 MS. CHEN: Objection, Your Honor. Ambiguous  
11 question. I'm not sure I understand what it means. And also,  
12 she lacks personal knowledge and --

13 THE COURT: No foundation, is that what you're  
14 saying?

15 MS. CHEN: Yes, Your Honor.

16 THE COURT: Sustained.

17 MR. HOFFMAN: Okay.

18 Q. In your experience, is it unusual to have a birth  
19 certificate that has an issue date after the birth date?

20 A. It's possible.

21 THE COURT: Why did you, Ms. Chen, object to the  
22 earlier question and not object to this question? I mean, just  
23 a matter of curiosity. Maybe you have a reason for doing that.  
24 I don't understand. Are you listening to the question?

25 MS. CHEN: I am, Your Honor.

1 THE COURT: I mean, can you explain why you made a  
2 correct objection, and then when the question is re-asked  
3 almost identically, you are sitting there talking to  
4 co-counsel.

5 MS. CHEN: Your Honor, I do apologize. I would have  
6 objected, but I was also, frankly, interested in hearing the  
7 answer, too.

8 THE COURT: Oh, then, fine. Forgive me for  
9 interrupting.

10 Go ahead. You can answer the question.

11 MR. HOFFMAN: Do you want me to re-ask the question?  
12 Q. Is it unusual to have a birth -- an issue date that is  
13 after the birth date on an Armenian birth certificate?

14 THE COURT: I can't understand the question. I have  
15 to essentially figure this out, so ask the question again.

16 MR. HOFFMAN: Yes, Your Honor. Yes, Your Honor.

17 Q. In your experience, is it unusual for the date of issuance  
18 to be after the birth date on a birth certificate?

19 A. Yes.

20 THE COURT: Well, it has to be. I mean, to some  
21 extent. You can't issue you a birth certificate before someone  
22 is born. I mean, isn't that right?

23 MR. HOFFMAN: That's true, Your Honor --

24 THE COURT: The question is how long.

25 MR. HOFFMAN: How long.

1 Q. Or is it unusual to have a length of time, such as in this  
2 case, from 1977 to 1997? That's the question.

3 A. It's possible.

4 Q. And why would it be possible, if you know, in your  
5 experience?

6 A. It was picked up later, it was applied for late.

7 Q. In your experience, why would somebody apply for it that  
8 late?

9 MS. CHEN: Objection, Your Honor, calls for  
10 speculation.

11 THE COURT: Sustained.

12 MR. HOFFMAN: I'll withdraw the question.

13 Q. In your opinion, would you be able to tell if this was a  
14 fraudulent document?

15 MS. CHEN: Objection, Your Honor, calls for legal  
16 expert opinion.

17 THE COURT: Sustained.

18 BY MR. HOFFMAN:

19 Q. In your experience and specialized knowledge, would you be  
20 able to tell the court if there were any characteristics of  
21 fraud exhibited in this document?

22 MS. CHEN: Same objection, Your Honor.

23 THE COURT: Objection is what?

24 MS. CHEN: As to calls for legal expert opinion based  
25 on the fraud part.

1 THE COURT: Well, that's not a good objection. What  
2 about no foundation?

3 MS. CHEN: That, too, Your Honor.

4 THE COURT: And so the objection is sustained on that  
5 ground.

6 BY MR. HOFFMAN:

7 Q. You testified previously that this was a genuine document  
8 in your opinion.

9 A. Yes, I testified.

10 Q. Okay. So the information that made you come to that  
11 conclusion -- strike that.

12 The characteristics that made you come to that  
13 conclusion would be lacking if it was not genuine; is that  
14 correct?

15 THE COURT: You're asking her now to sort of view the  
16 matter from the opposite side. She's told you why she thinks  
17 it's a genuine document. There's nothing about her training  
18 which would indicate she could be skilled in detecting the  
19 forgery, and so it's for me to accept or reject her testimony,  
20 along with all the other testimony, as to whether or not her --  
21 whether the document is genuine.

22 MR. HOFFMAN: I'm going to ask -- can I ask one more  
23 question, and that will be my final question, about that  
24 education or training?

25 THE COURT: All right.



1 BY MR. HOFFMAN:

2 Q. You testified earlier about your education or training.  
3 Was there anything in that education or training that would  
4 allow you to evaluate this document as genuine?

5 A. Since I've had a lot of contact with documents, I find  
6 that this is a real original Republic of Armenia birth  
7 certificate.

8 MS. CHEN: Objection, Your Honor. Move to strike the  
9 answer on the grounds that it constitutes a legal expert  
10 opinion.

11 THE COURT: Well, look, I'm -- we're asking the same  
12 thing in different ways. If she says she has this experience,  
13 she's looked at Exhibit 109. She's identified certain earmarks  
14 which are the basis for her opinion that is genuine. That's  
15 her testimony and it's to be accepted or rejected. That's it.  
16 I don't know why we keep asking the same questions over and  
17 over again.

18 MR. HOFFMAN: No further questions, Your Honor.

19 THE COURT: Anything else?

20 Thank you.

21 MS. CHEN: No, Your Honor.

22 THE COURT: Thank you, ma'am. You may step down.

23 MR. KURZBAN: Your Honor, I believe the last witness  
24 is Mr. James Rosenberg.

25 THE COURT: Okay.

1 MR. KURZBAN: That was someone I think you wanted to  
2 hear from.

3 THE COURT: All right. I forget exactly why I wanted  
4 to hear from him but ...

5 MR. KURZBAN: He was the former attorney of  
6 Mr. Demirchyan.

7 MS. CHEN: Your Honor, the government actually is  
8 prepared to accept Mr. Rosenberg's declaration without any  
9 cross-examination other than the objection to paragraph five as  
10 it relates to lack of personal knowledge and foundation.

11 THE COURT: What is paragraph five? Can I see his  
12 declaration?

13 MS. CHEN: Yes, Your Honor. May I approach the ...

14 THE COURT: Yes.

15 Paragraph five would be properly objected to in any  
16 event. So why can't we just accept his declaration with the  
17 exception of paragraph five? There's no evidentiary basis for  
18 Exhibit 5. It's just his opinion and a sum up, but paragraphs  
19 one through four I can accept.

20 MR. KURZBAN: I agree, Your Honor.

21 THE COURT: All right. Paragraphs one through four  
22 of the affidavit of James Rosenberg is accepted.

23 And that would be Exhibit 6, correct?

24 THE CLERK: Yes, Your Honor.

25 THE COURT: So -- yes. So the evidentiary part of

1 the case is complete. Let me hear some argument, if you wish,  
2 from the petitioner, and then I'll hear from the government.

3 MR. KURZBAN: Your Honor, just before we do that, if  
4 I may?

5 THE COURT: Yes.

6 MR. KURZBAN: I'd like to move into evidence at this  
7 point Exhibits 108 to 133.

8 THE COURT: Have those been referenced?

9 MS. CHEN: I believe 108 has. I have no idea what  
10 the other --

11 THE COURT: 109 has been --

12 MS. CHEN: What is 109?

13 MR. KURZBAN: I can go through them quickly.

14 THE COURT: What are they?

15 MR. KURZBAN: 108 is the 2000 birth certificate  
16 that --

17 THE COURT: That can be received --

18 MR. KURZBAN: I'm sorry?

19 THE COURT: I mean, that -- I didn't say it could be  
20 received. That's the subject of an evidentiary objection.

21 MR. KURZBAN: Right.

22 THE COURT: So I can hear argument on that.

23 MR. KURZBAN: Okay.

24 THE COURT: 109 is received.

25 MR. KURZBAN: 109 is the --

1 (Petitioner's Exhibit 109 received in evidence)

2 THE COURT: What are the other exhibits? There were  
3 about 20 or so that I haven't heard any reference made to in  
4 the hearing.

5 MR. KURZBAN: Right.

6 One -- Exhibits 110 to 120 --

7 THE COURT: Yeah. Just give me --

8 MR. KURZBAN: Yeah. Exhibits 110 to 120 are exhibits  
9 that came from the government's file. They are after -- I  
10 won't say after acquired, but they are documents that indicate  
11 that Mr. Demirchyan's birth was July 27th, 1977. They're from  
12 the government's files, through the FOIA request, and that  
13 relates directly to Mr. Rosenberg's affidavit where he says he  
14 made the request. The government knows it -- the government  
15 knows it came from their file, so there really shouldn't be any  
16 issue as to authenticity.

17 The issue for Your Honor --

18 THE COURT: Let's get through these exhibits; then we  
19 can get -- turn back and see how they fit the dispute.

20 So 110 through 120 are exhibits that come from the  
21 government's file as per the FOIA request.

22 MR. KURZBAN: Correct.

23 THE COURT: Which have the birth date of the  
24 petitioner as July 1977.

25 MR. KURZBAN: Correct.

1 THE COURT: What about 120 to 133?

2 MR. KURZBAN: Okay. 121 -- that was 110 to 120, I'm  
3 sorry. 121 to 127 are affidavits of other people, we wanted to  
4 call them as witnesses. You had excluded them. Our position  
5 obviously is, Your Honor, to preserve any appeal, if that  
6 becomes necessary, that we believe that they were --

7 THE COURT: You made the offer, and now I'll rule  
8 upon that. In effect, I have, but I'll confirm it one way or  
9 the other in my findings.

10 MR. KURZBAN: Thank you. 129 is just a duplicate.  
11 That's Rosenberg's affidavit, again, so ...

12 THE COURT: We don't need that then. That's  
13 Exhibit 6 now.

14 MR. KURZBAN: I'm sorry?

15 THE COURT: What you have just described as  
16 Exhibit 129 is now Exhibit 6.

17 MR. KURZBAN: Correct, Your Honor.

18 THE COURT: Yes.

19 MR. KURZBAN: And I take it 1 through 6, we'd move  
20 their admission, too.

21 THE COURT: They're in evidence.

22 (Petitioner's Exhibits 1-6 received in evidence)

23 MR. KURZBAN: Other exhibits are 130 to 134. Those  
24 are the exhibits that come out of Your Honor's -- well, two of  
25 them. 130 to 131 are secondary proof of Susanna Demirchyan's

1 trip in the year 2000 to Armenia. We have her airplane ticket,  
2 and we had something from a Mr. Crow --

3 THE COURT: Any objection --

4 MS. CHEN: Your Honor, to the extent that it's  
5 represented, it is a, I believe, an airline ticket issued to  
6 Mrs. Demirchyan to Moscow, the government does not object to  
7 that.

8 THE COURT: Okay. So 130 and 130 -- what is it?  
9 One -- is that 130?

10 MR. KURZBAN: Yeah. 130 is the ticket.

11 THE COURT: All right. That's received.

12 (Petitioner's Exhibit 130 received in evidence)

13 MR. KURZBAN: 131 is a letter to, again, INS. Again,  
14 it's also part of the FOIA. This was from John Crow, who was  
15 Mr. Demirchyan's lawyer, and it related to, again, the birth  
16 certificate and that she had brought it from Armenia and they  
17 were seeking to introduce it.

18 THE COURT: This is just his argument based upon what  
19 his client told him. Why should this be evidence?

20 MR. KURZBAN: Only because it's a contemporaneous  
21 record that the doc -- you know, that she had obtained the  
22 document.

23 THE COURT: I don't follow. Are you saying that  
24 the -- that when a lawyer for a petitioner writes a  
25 self-serving letter and that letter is maintained in the

1 government file, that becomes a document which then has  
2 trustworthiness because it's in a government's file?

3 MR. KURZBAN: Well, no.

4 THE COURT: It means like you're saying.

5 MR. KURZBAN: It's authentic because it's in the  
6 government's file.

7 THE COURT: But it isn't authentic because it's in  
8 the government's file. That's where your argument loses force.  
9 In order for a document to be authentic, just like any other  
10 document, there -- a business record, it has to be a foundation  
11 established that the document is of the kind that's prepared by  
12 the government, relied upon the government for its  
13 trustworthiness and maintained by the government. This is a  
14 self-serving letter from a lawyer. I'm not going to accept  
15 131.

16 MR. KURZBAN: Okay.

17 And then 132 and 133 are the transcripts or parts of  
18 the transcripts that we had referenced before when you said we  
19 didn't need to examine the people, the transcript of the  
20 hearing --

21 THE COURT: All right. Then those parts of the  
22 transcripts can be received.

23 What about one -- what's the government's position  
24 with 110 through 120?

25 MS. CHEN: Your Honor, may I be heard briefly on each

1 of those?

2 THE COURT: Yes.

3 MS. CHEN: Your Honor, with respect to 110 and 111,  
4 they are pages from U.S. passports which have been since  
5 revoked. They were applied for by the petitioner after the  
6 initiation removal proceedings. We do object to them on the --

7 THE COURT: What probative value do they have?

8 MS. CHEN: We don't believe there is any, Your Honor.

9 THE COURT: I mean, they're applications for  
10 passports in which he, what, includes the birth date of her  
11 son?

12 MS. CHEN: Your Honor, I believe they're actually  
13 actual pages of passports. The first one, 110, it states an  
14 issue date of March 2002.

15 THE COURT: What is the probative value? Does the  
16 mother in that application list the date of her son? What's  
17 the value of it?

18 MS. CHEN: Your Honor, I believe that Mr. Demirchyan  
19 applied for these passports through the State Department, and  
20 it was issued 2002, after --

21 THE COURT: So in those applications, he lists his  
22 birth date as 1977.

23 MS. CHEN: That's correct, Your Honor. That's my  
24 understanding.

25 THE COURT: I see. So, in other words, these are



1 self-serving documents in the sense that the immigration  
2 proceedings were ongoing and the issues known at the time he  
3 made this application.

4 MR. KURZBAN: That's correct, Your Honor.

5 THE COURT: So they're not received.

6 MS. CHEN: Exhibit 111, Your Honor, I believe, is the  
7 same. It's another page of an American passport. It looks  
8 like the issue date is even later, February 2009.

9 THE COURT: Same objection?

10 MS. CHEN: Exhibit 112 --

11 THE COURT: Are you listening to me? Is it the same  
12 objection?

13 MS. CHEN: Yes, Your Honor.

14 THE COURT: All right.

15 MS. CHEN: Exhibit 112 appears to be an Armenian  
16 passport; however, we do object on the grounds of lack of  
17 foundation.

18 THE COURT: What date is it? It is after the --  
19 after the immigration proceedings -- was it after the issues,  
20 that is, the date of birth of the petitioner became at issue?

21 MS. CHEN: Looking at Exhibit 111, Your Honor, it  
22 looks like it is after. Its issue date is April 3rd, 2007.

23 THE COURT: All right. Then that's not received.

24 MR. KURZBAN: Your Honor, in order to save Your  
25 Honor's time, and I thought I said this at the beginning, and I

1 apologize, they're all after. So the question is whether --  
2 our review, obviously, is they're admissible, they're  
3 authentic, the question is what weight do you want to give  
4 them?

5 THE COURT: Why are they admissible?

6 MR. KURZBAN: Because they're authentic documents.  
7 There's no question about the authenticity.

8 THE COURT: What do you mean? I can't understand  
9 that argument. In other words, because you, after this issue  
10 of the petitioner's birth became at issue, filed documents with  
11 the government, and you list his birth date as the date that  
12 you advocate, rather than the date the government advocates,  
13 it's your view that they've become authentic? Authentic what,  
14 government records?

15 MR. KURZBAN: I'm not sure we're arguing over  
16 something different. Our view is they're admissible, and you  
17 can give them whatever weight you want. You feel that they  
18 have no weight, and I understand Your Honor's position. I  
19 don't agree, but I understand it, that you feel it has no  
20 weight because you think it's self-serving.

21 THE COURT: I'm not admitting them, and even if they  
22 were admissible as being authentic, I find they have no  
23 evidentiary value given the time frame.

24 MS. CHEN: Finally, Your Honor, just very briefly,  
25 with respect to Exhibits -- I believe it's 114 to 119. They

1 are basically printouts from, I think, the INS computer  
2 database, as least they purport to be. We do object to it  
3 based on authentication grounds. And, again, they all do  
4 postdate the 2000 date.

5 THE COURT: What exhibits are these again?

6 MS. CHEN: Your Honor, again, it's 114 to 119, and  
7 from what I can tell, they are printouts from the INS database  
8 called IBIS, is one --

9 THE COURT: Has there been any foundation laid for  
10 them except that they are pieces of paper?

11 MS. CHEN: Your Honor, I will note for the record  
12 that there appears to be FOIA-stamped pages. So they appear to  
13 have been produced pursuant to petitioner's FOIA request.

14 THE COURT: And so what do they appear to be?

15 MS. CHEN: They appear to show, again, I --

16 THE COURT: What are they? Maybe I'll ask the  
17 proponent.

18 MR. KURZBAN: Your Honor, they are different  
19 documents that came as a result of the FOIA request from the  
20 government's own file. They have the original file right  
21 there --

22 THE COURT: But what are they?

23 MR. KURZBAN: And they're documents that are  
24 generated by the computer system of immigration itself, and  
25 those documents indicate that the date of birth is 1977 versus

1 '76. Now, again, they're all after 2000, so --

2 THE COURT: After issue was joined?

3 MR. KURZBAN: Right, after the issue was joined.

4 But, in fact, they are the government's own documents saying  
5 that his birth date is 1977, not --

6 THE COURT: I'll reserve ruling on that. Is that it?

7 MS. CHEN: Your Honor, just to clarify, one of the  
8 documents in question does say 1976, 1977, question mark,  
9 question mark, and that, again, is to represent all the  
10 different documents which have been submitted by the petitioner  
11 after initiation of the removal proceedings in 2000. But the  
12 last batch of exhibits are the declarations that counsel  
13 represented as being from people who have not testified today.

14 THE COURT: I understand that.

15 All right. Let's hear argument, if you wish.

16 MS. CHEN: Thank you, Your Honor.

17 MR. KURZBAN: Your Honor, our only other issue was on  
18 the witness list, which you've already ruled, but I just want  
19 to be clear on the record. We had on our witness list, witness  
20 No. 2, 4 through 10, 13 through 17 were --

21 THE COURT: I issued a minute order, and obviously I  
22 considered that those declarations. And the purpose of the  
23 minute order of October 18, 2012, was to indicate, in light of  
24 my interpretation of the Ninth Circuit's order, what was still  
25 remaining and which witnesses would relate to that.

1 So let's proceed to argument.

2 MR. KURZBAN: Thank you, Your Honor, with that  
3 limitation.

4 Now, our position here is that the evidence that Your  
5 Honor heard today conclusively proves that Mr. Demirchyan's  
6 date of birth is 1977, July 27th, and the reason for that is  
7 simple --

8 THE COURT: Let me ask you this question: Why do you  
9 say conclusively proved? Is that your burden? Do you have --

10 MR. KURZBAN: No --

11 THE COURT: Do you have to show that the evidence --

12 MR. KURZBAN: The greater --

13 THE COURT: What is your burden?

14 MR. KURZBAN: Well, you know, that is -- you raised  
15 that at the last hearing, and I think that is actually very,  
16 very interesting and undecided question in this circuit and  
17 every other, which is when a case comes on remand with respect  
18 to the issue of citizenship, No. 1, who really does have the  
19 burden? Does the individual have the burden or not? I don't  
20 think it's actually very clear, or does the government have the  
21 burden? Because, remember, this comes in the context --

22 THE COURT: You started out by saying that you're  
23 going to conclusively prove something. It sounds as though you  
24 were creating a barrier higher than you need.

25 MR. KURZBAN: I agree.

1 THE COURT: Why do you have to conclusively prove  
2 anything?

3 MR. KURZBAN: I don't.

4 THE COURT: You don't even have to do that in a  
5 criminal case.

6 MR. KURZBAN: Right.

7 THE COURT: All you have to do is meet whatever  
8 burden is applicable. And so if you have a burden, it's by a  
9 preponderance of the evidence.

10 MR. KURZBAN: Thank you.

11 THE COURT: So let's assume it's your burden and you  
12 have to prove it by a preponderance of the evidence, not  
13 conclusively.

14 MR. KURZBAN: Thank you, Your Honor.

15 THE COURT: Proceed.

16 MR. KURZBAN: Thank you for the correction.

17 The evidence here demonstrates the following, and I  
18 think it's a very clear line: That Susanna Demirchyan  
19 attempted, after she came to the United States, and after her  
20 son's birth certificate was lost, she made attempts in the  
21 early 1990s to obtain a new birth certificate, and she went  
22 through one of her neighbors, who subsequently committed  
23 suicide, and, therefore, obviously wasn't able to complete  
24 whatever she had asked her to do. She then turned to --

25 THE COURT: When did Susanna come to the United

1 States again? What year?

2 MR. KURZBAN: I'm sorry?

3 THE COURT: When did Susanna come to the United  
4 States? What year was that?

5 MR. KURZBAN: '88, 1988. I'm sorry.

6 THE COURT: And so you say that she almost  
7 immediately tried to get her son's birth certificate.

8 MR. KURZBAN: No, I didn't say that.

9 THE COURT: When did she try, first start to get  
10 her --

11 MR. KURZBAN: Why didn't she try?

12 THE COURT: When did she first start?

13 MR. KURZBAN: I think in -- it appears from her  
14 testimony in the mid '90s.

15 THE COURT: And when was she nationalized? When did  
16 she get her citizenship?

17 MR. KURZBAN: '95. 1995, Your Honor.

18 THE COURT: So was it before or after she obtained  
19 her citizenship that she tried to get a birth certificate for  
20 her son?

21 MR. KURZBAN: I think that's unclear, and I don't  
22 want to misstate that to Your Honor. I mean, she is here, I  
23 guess we can ask her, but it was sometime in the mid 90s that  
24 she made that effort. The effort turned out to be  
25 unsuccessful.

1 She then turned to another neighbor, Asatur, you've  
2 heard his testimony today. His testimony was that he did go  
3 down, he did obtain the 1997 birth certificate. He was not  
4 paid to do it, he was not paid for his testimony today. He was  
5 a neighbor, he was a police officer in Armenia. In our view,  
6 he has no reason to lie about it or dissemble about it.

7 And he then said that he, along with a cousin, whose  
8 last name -- Khachanyan, pardon me, Khachanyan both found  
9 someone -- which in my experience certainly is a very common  
10 practice -- to have someone take the birth certificate directly  
11 to the United States, someone who is coming here, was a tourist  
12 and so forth.

13 Mrs. Demirchyan's testimony was that she then  
14 received that. Asatur's testimony was he was thanked for it,  
15 and may have heard there was an acknowledgment that the  
16 document was actually received by Susanna Demirchyan. Susanna  
17 Demirchyan then said that she turned over the document to her  
18 son.

19 The government, I think, tried to demonstrate, and  
20 remember, this is 1997, 15 years ago, that when Mrs. Demirchyan  
21 said she gave it to her son and didn't do anything else, that  
22 somehow that she was subsequently lying, but the fact is her  
23 son testified that he asked his mother to go with him and to  
24 accompany him to the immigration office.

25 The testimony is also very clear that at the



1 immigration office, they were told, both of them testified to  
2 this, they were told that immigration would not accept the  
3 document, that the -- that he was given what they call a blue  
4 slip, which was an address form, to mail the document into  
5 immigration.

6 Mr. Demirchyan then testified that he mailed a copy  
7 into immigration. He did not mail the original document into  
8 immigration, he kept the document at home. The next time that  
9 that document re-appears is when he is in deportation  
10 proceedings. He calls his mother from Eloy, which is the  
11 detention facility, and asks her to get his birth certificate  
12 to prove his citizenship.

13 She then takes that 1997 birth certificate, she  
14 brings it to Eloy, it is presented at the hearing through  
15 Mr. Crow, their attorney. And at that time, the judge -- and  
16 that's in the transcript -- turns and basically says, look,  
17 this document isn't authenticated. You have a document -- and  
18 I might add, the translation was made sometime later. I'm sure  
19 the government is going to bring this out.

20 If you look at Exhibit 109, there is the document in  
21 '97, and the translation is later on, apparently in 2000. I  
22 don't know why that's so. But the document was translated  
23 later on, and is presented, and the judge believes -- and I  
24 think there is actually an issue of law there, because I think  
25 it was admissible, but he believed it was not admissible at the

1 time and that it needed all the bells and whistles, the  
2 authentication and so forth, and returns the document.

3 They first turned to the government and asked the  
4 government to authenticate it, and the government says it's  
5 going to take a long time. Mr. Demirchyan is still in  
6 detention. At that point, they all agree that Mrs. -- Susanna  
7 Demirchyan can take the document and get it authenticated.

8 Her testimony is that, in fact, she did take the  
9 document. She brought it to -- and this is now ultimately  
10 resulting in Exhibit 109, we now have the proof through her  
11 ticket, her airplane ticket, that, in fact, in November of 2000  
12 she does return to Armenia and gets that 1997 document  
13 authenticated.

14 The 1997 document, you have heard testimony from a  
15 person we believe is an expert witness in this case, and she  
16 has testified that it's an authentic document. Has all the  
17 markings, based on her experience working in that agency, that  
18 it has all the markings of an authentic document.

19 Mrs. Demirchyan takes that document to the Department  
20 of Justice and they keep it, which is why we don't have the  
21 original document, and why under the Federal Rules of Evidence  
22 we believe the copy is admissible and valid evidence, because  
23 the original no longer exists and is now, I think, probative  
24 evidence to establish the validity of the copy and the original  
25 and what happened to it.

1           So at that point, the document is then taken to the  
2   ministry; the ministry authenticates it properly. This is now  
3   Exhibit 109. It's then authenticated by the United States  
4   Consulate, and she returns with it.

5           The transcript that you have now, Exhibit 134,  
6   indicates that the document, in fact, was returned, was  
7   authenticated, and was admitted into evidence at the time. And  
8   that's document 108, and that was the document that previously  
9   Your Honor had some, I think, questions about, previously not  
10   admitting it. I think now we've established the chain of  
11   custody with respect to the document and the lawfulness of it,  
12   and, of course, we'd ask Your Honor to reconsider Your Honor's  
13   position with respect to Exhibit 108 in light of that.

14           We believe that based on all of this evidence, and,  
15   you know, these are events, of course, that occurred 15 years  
16   ago, from 1997, and there may be glitches of people's memories.  
17   You know, the government made an issue over was it the cousin  
18   who gave the document to the person who was coming to the  
19   United States versus Asatur giving the document or were they  
20   both together when they gave the document --

21           THE COURT: One moment.

22           MR. KURZBAN: Sure.

23           THE COURT: Can I see Exhibit 109 for a minute? Who  
24   has Exhibit 109?

25           What is the date of Exhibit 109? In other words,

1 when was the certificate, birth certificate, the certified copy  
2 obtained?

3 MR. KURZBAN: In 1997, according to this. It was  
4 April 29th, 1997.

5 THE COURT: When did she get the certification, the  
6 2000? What date --

7 MR. KURZBAN: Oh, I'm sorry. You know, I may have  
8 confused the numbers, Your Honor. The 2001 is Exhibit 108.

9 THE COURT: So that is the -- what is the date of  
10 108?

11 Can I see 108, Paul?

12 Yeah.

13 MR. KURZBAN: 108 is 2000, I believe. We don't have  
14 a copy of 108.

15 THE COURT: 108 is -- which is the certified copy  
16 that Susanna says she obtained on the trip to Armenia, is dated  
17 December 5, 2000.

18 MR. KURZBAN: That's exactly right. Because the  
19 plane ticket was November --

20 THE COURT: I have it.

21 MR. KURZBAN: Okay.

22 So -- and obviously, pursuant to Rule 901(b)(1) of  
23 the Federal Rules of Evidence, we believe that both the  
24 Exhibit 109, which is the 1997 document, and 108 may be  
25 admitted into evidence, and we'd point Your Honor to some

1 cases -- okay. Primarily a case, *Kahn v. Immigration and*  
2 *Naturalization Service*, which is 237 F.3d 1143, with respect to  
3 the admission of the evidence and why Your Honor should  
4 consider it.

5 So in the end, Your Honor, from our position, we know  
6 that obviously there were problems when they first came,  
7 obviously the different date was used, but there clearly came a  
8 time when they made efforts to get this all straightened out.

9 And I would point out, the government has always cast  
10 doubt on Mr. Demirchyan's credibility because of his perjury  
11 conviction. Your Honor has allowed them to the discuss that  
12 but --

13 THE COURT: Isn't it plural? I mean, doesn't he have  
14 two convictions that involve dishonesty?

15 MR. KURZBAN: Yes, there are two, but they all -- but  
16 they both, interestingly -- and we would ask Your Honor to  
17 consider this -- they both, interestingly, are convictions  
18 about getting a phony driver's license with a date that showed  
19 that he was older.

20 So and I understand that perjury convictions, and I  
21 understand the issue, but one of the things, since they're  
22 beyond ten years, it does require the court to look at the  
23 specifics and circumstances and so forth. And here, peculiarly  
24 enough, he's not lying about his age to be younger to get the  
25 benefit here, he is saying, you know, like many kids at the

1 time, wanted to get a phony driver's license to show he was 21.  
2 That's the substance of the perjury convictions here.

3 And I'm not trying to minimize them, but it's one  
4 thing for a young man to try and show he is 21 because he  
5 either wants a drink or he wants to gamble or something of that  
6 nature, and that's the kind of perjury conviction this is, but  
7 it's one in which he is trying to make himself older, not  
8 younger, to get a benefit for purposes of naturalization.

9 THE COURT: Anything else to argue?

10 MR. KURZBAN: Just, Your Honor, in closing, Your  
11 Honor, real briefly.

12 I know that there was obviously some difficulty with  
13 these affidavits and the issue of were they in the proper form  
14 or not. And I don't want to belabor that point, I just want to  
15 point out to the court two things: One is, you heard the  
16 testimony. So whatever the ultimate determination is with  
17 respect to the validity of the affidavit, you actually heard  
18 the underlying testimony, and as you said yourself, and we  
19 fully agree, the issue is really the substance of the  
20 testimony, not the forms or the affidavit.

21 The second thing is, with respect to the expert, you  
22 heard her testimony. I know the government brought up what is  
23 normally a very, very sensitive issue, which is, you know, is  
24 there any personal relationship, and you heard her testimony  
25 that her daughter was not involved in a personal relationship

1 with Mr. Demirchyan at the time that this -- that she submitted  
2 the affidavit and the time we submitted it to the Court of  
3 Appeals.

4 And, again, just a final point: With respect to the  
5 standard, as to our standard, I think Your Honor may wind up  
6 writing an opinion for the first time on who really has the  
7 burden in this, but as Your Honor pointed out, if we do have  
8 the burden, it's only by the greater weight of the evidence. I  
9 honestly believe that the government may have the burden here,  
10 and if they do, they certainly have not established that  
11 burden. Thank you, Your Honor.

12 THE COURT: All right. Hear from the government.

13 MS. CHEN: Thank you, Your Honor.

14 First with respect to the burden of proof, the  
15 parties throughout this litigation have always agreed that the  
16 petitioner bears the burden of proof and it is a preponderance  
17 of the evidence, burden of proof regarding his citizenship.

18 And as the court is aware, this court did hold two  
19 evidentiary hearings in 2009, 2010, where it heard testimony  
20 from petitioner's brother, as well as the mother, and reviewed  
21 documentary evidence, and based on that, it did issue findings  
22 of fact, conclusions of law concluding that petitioner had not  
23 borne his burden of proof.

24 Subsequently thereafter, this case did go back up to  
25 the Ninth Circuit where petitioner filed a Motion to

1 Supplement. As a result of that motion, the Ninth Circuit  
2 remanded it back to this court so that it could hold further  
3 evidentiary hearing. It cannot be that just because it came  
4 down from remand, that somehow the government has now been  
5 shifted the burden of proof. The only thing the Ninth Circuit  
6 wanted this court to do was to hold further evidentiary  
7 hearing --

8 THE COURT: But the petitioner maintains that as a  
9 matter of law, in the context of a petitioner challenging  
10 deportation, that the government has the burden of proof, and  
11 the petitioner argues that, at a minimum, the question is  
12 unsettled. So forgetting for the moment the history of the  
13 litigation, how do you address the plaintiff's contention  
14 regarding burden of proof?

15 MS. CHEN: Your Honor, I believe the parties had  
16 previously submitted briefing on that issue. I don't have it  
17 available.

18 THE COURT: I don't recall whether I ever did  
19 explicitly rule. Did I, on the burden?

20 MS. CHEN: I don't believe at that time there was a  
21 dispute as to the burden of proof, Your Honor. The government  
22 is happy to go back and look at it and submit any supplemental  
23 briefing if the court --

24 THE COURT: But, I mean, the first question,  
25 obviously, is who has the burden of proof and by what standard.



1 And the petitioner contends that it's the government's burden  
2 and not his. So other than what has been briefed so far, you  
3 have no further input.

4 MS. CHEN: I do not, Your Honor, simply because I did  
5 not --

6 THE COURT: All right. Then let's proceed with your  
7 argument.

8 MS. CHEN: I just want to be very brief about this.  
9 In terms of counsel got up here and talked about the government  
10 taking issue with certain of the witnesses' testimonies based  
11 on the fact it was 15 years ago, or that we're trying to cast  
12 doubt on petitioner's credibility simply because he has perjury  
13 convictions. It goes beyond that.

14 With respect to 1997, there have been very many  
15 different versions of the story as to how the birth certificate  
16 was obtained. With respect to petitioner, as his testimony  
17 revealed, he first, at the very beginning of this litigation,  
18 in written responses which he signed under penalty of perjury,  
19 first stated that it was faxed by a neighbor, Lucy, who is now  
20 since deceased.

21 He then said in a deposition that, again, as part of  
22 the record for this case, that a cousin, Hovanisyan Khachanyan,  
23 was, in fact, the person who received the power of attorney,  
24 obtained the birth certificate, and then sent it by messenger  
25 or by courier or a tourist to him and his mother in 1997.

1 Then his declaration, which constitutes his direct  
2 testimony today, all of a sudden points out to Asatur Guyumjyan  
3 as actually being the person. Frankly, Asatur Guyumjyan has --

4 THE COURT: Being the person for what?

5 MS. CHEN: As the person who obtained the power of  
6 attorney in 1997, Armenia, obtained the birth certificate in  
7 question, and then sent it to the United States for --

8 THE COURT: But today the testimony was that  
9 Asatur -- what was his last name?

10 MS. CHEN: Guyumjyan, I believe, Your Honor.

11 THE COURT: -- Guyumjyan and Khachanyan delivered the  
12 passport to this unnamed tourist's home, and I thought there  
13 was testimony in another proceeding, or maybe in this  
14 proceeding, that Asatur delivered the passport to this unknown  
15 tourist at the airport.

16 MS. CHEN: That's correct, Your Honor. I believe  
17 Mr. Guyumjyan's declaration stated it was at an airport. In  
18 his written declaration, however, on cross he then said that he  
19 gave it to this tourist at the tourist's house, I believe.

20 With respect to the mother's testimony today, both in  
21 her direct written declaration, as well as in her  
22 cross-examination, again, in -- previously in a deposition, in  
23 2009 she had stated that the cousin, Hovanisyan Khachanyan,  
24 had --

25 THE COURT: I can't understand what you're saying.

1 These names are difficult and you're not saying them clearly.  
2 Start again.

3 MS. CHEN: Yes, Your Honor.

4 With respect to the mother's testimony in the  
5 deposition 2009, she had testified that a cousin by the name of  
6 Hovanisyan Khachanyan had obtained the birth certificate for  
7 her.

8 In her declaration, which was submitted as her direct  
9 testimony, it now states that it was, in fact, Asatur  
10 Guyumjyan. And then again on cross-examination, and on  
11 redirect, it became Asatur Guyumjyan and this cousin together  
12 who helped obtain the birth certificate.

13 With respect to the testimony of Asatur Guyumjyan, as  
14 the court pointed out, there is no translation even though on  
15 the stand he stated that he could not read English.

16 THE COURT: Translation for what?

17 MS. CHEN: For his English language declaration.

18 THE COURT: I know. But whatever is involved in that  
19 question, the substance of his position was explored.

20 MS. CHEN: Yes, Your Honor.

21 Subsequently thereafter --

22 THE COURT: What about -- I find it interesting,  
23 certainly not determinative, but curious, that the mother was  
24 able to produce an Aeroflot ticket of now 12 years ago, and she  
25 hasn't produced this -- even a copy of this power of attorney.

1 MS. CHEN: Yes, Your Honor.

2 THE COURT: Go ahead.

3 MS. CHEN: Thank you, Your Honor.

4 Just to finish up with respect to Mr. Guyumjyan's  
5 testimony, it came out on questioning with the attorney that's  
6 affiliated with Mr. Kurzban's firm that they had used a  
7 translator by the name of Angie Markosyan to help translate for  
8 Mr. Guyumjyan, and subsequently thereafter he signed the  
9 English language document as a result.

10 It's come out through testimony today that Angie  
11 Markosyan is another witness's daughter by the name of Zara  
12 Hovanisyan, the last witness the court heard. And as she  
13 testified on cross-examination, her daughter is, in fact,  
14 dating the petitioner, and while she may not have -- while her  
15 daughter may not have been dating the petitioner when she  
16 signed her declaration, which I believe was in August of last  
17 year, I believe her testimony was that she has known the  
18 petitioner for two years, Your Honor.

19 So we believe that all of the witnesses are somehow  
20 affiliated with the petitioner, either a relative, in the form  
21 of his mother, Mr. Guyumjyan, who had never appeared before  
22 this court or otherwise been referenced prior to the submission  
23 of his declaration, who also apparently was a family friend and  
24 a neighbor of the Demirchyan's in Armenia, I believe he said for  
25 12 years.

1 With respect to Ms. Hovanisyan, she has produced a  
2 workbook which shows that she worked for the archives.  
3 However, in her own declaration, as well as on  
4 cross-examination, she did admit that she worked in a different  
5 division. I believe she stated that the division holding the  
6 official birth certificates were in the same building and she  
7 had some sort of experience with birth certificates, but on  
8 cross-examination she admitted that she has no training in  
9 terms of authenticating birth certificates, she's never been  
10 asked in her official duties at the archives to authenticate  
11 birth certificates. All her declaration says is that she  
12 believes that the stamps are located in the exact right  
13 locations where they should be on an Armenian birth certificate  
14 based on the fact that she worked for the archives, I believe  
15 from 1978 to 1983.

16 THE COURT: Which is 14 years before this  
17 certificate; isn't that right?

18 MS. CHEN: Yes, Your Honor, I believe so.

19 And with respect, finally, to the 1997 birth  
20 certificate again, the court had previously asked the  
21 government --

22 THE COURT: Isn't it true -- and isn't it, of  
23 course -- there was some reference in the case, but it's  
24 something the court can take notice of -- that when she worked  
25 in the archives, she, herself, at least the work record

1 indicates she was working for the communist country at that  
2 point, Armenia was a communist country as part of the Soviet  
3 Union. And whatever bureaucratic system existed then, it could  
4 have been much different 14 years later when Armenia became a  
5 separate state, was not part of the Soviet Union, and the  
6 communist government no longer existed.

7 So what I'm suggesting is that it isn't so easy to  
8 accept that even if she did recognize something as looking  
9 authentic 14 or 15 years ago, the world changed dramatically at  
10 that point. And there's a serious question as to whether what  
11 she experienced in 1978 to 1983 was the same circumstance that  
12 existed in 1997.

13 MS. CHEN: Yes, Your Honor.

14 With respect, again, to the 1997 birth certificate,  
15 what the testimony came out today was she somehow obtained the  
16 1997 birth certificate from an individual traveling here, and  
17 obtained it and then was subsequently asked by the immigration  
18 court to get it authenticated.

19 The court previously, this court previously, Your  
20 Honor, had ordered the government to investigate through a  
21 search of the government's possession of petitioner's A File as  
22 to when the government first came into the possession of the  
23 1997 birth certificate in question, and I refer the court to  
24 document Pacer No. 71, which was the government's brief which,  
25 amongst other things, talked about it, and the record shows

1 that the government first got possession or came in possession  
2 of a copy of this 1997 birth certificate in question through  
3 petitioner's then counsel, Mr. John Crow, during the removal  
4 proceedings.

5 THE COURT: What year was that?

6 MS. CHEN: I believe, Your Honor, it was enclosed  
7 with an interoffice memorandum dated October 8th, 2000, and I  
8 have submitted the relevant --

9 THE COURT: Is that what prompted the immigration  
10 judge to require the petitioner to get it authenticated?

11 MS. CHEN: Yes, your Honor.

12 THE COURT: And I don't think that is in dispute, or  
13 is it?

14 MS. CHEN: I don't believe it is in dispute, Your  
15 Honor.

16 THE COURT: Yeah. All right. You made it sound like  
17 it was in dispute.

18 MS. CHEN: Your Honor, the only other thing I wanted  
19 to talk about was in terms of the 1997 birth certificate is  
20 based on Mrs. Demirchyan's own testimony. She testified that  
21 she took a 1997 birth certificate to get authenticated in  
22 Armenia, and that the Armenian authorities, instead of  
23 authenticating the 1997 birth certificate itself, in actuality  
24 then re-issued it in the form of a 2000 birth certificate,  
25 which is, I believe, Exhibit 108, which petitioner had

1 previously attempted to introduce and which this court found to  
2 be --

3 THE COURT: I can't understand what you're saying. I  
4 mean, it's your issue. You're not speaking clearly.

5 MS. CHEN: Your Honor, let me try again.

6 So the 1997 birth certificate in question, which is  
7 Exhibit 109 --

8 (Discussion held off the record)

9 MS. CHEN: Exhibit 109, Your Honor, which is the 1997  
10 birth certificate, the petitioner's mother today testified that  
11 she had returned to Armenia in 2000 to get it authenticated  
12 because the immigration judge had asked her to do so.

13 THE COURT: So that is not in dispute.

14 MS. CHEN: That's not in dispute, Your Honor.

15 She then went back -- it's also not in dispute that  
16 she did, in fact, take it back to go to -- she went back to  
17 Armenia to get authenticated. However, she was told, based on  
18 her testimony, that the Armenian officials believed that the  
19 1997 birth certificate was torn, was too old, in bad condition,  
20 and they actually never authenticated that 1997 birth  
21 certificate.

22 Instead, they issued a new one in the form with a  
23 issue date -- issue year of 2000, which I believe is  
24 Exhibit 108. So Exhibit 109, which is a 1997 birth certificate  
25 in question, appears to have never been authenticated by the



1 Armenian officials, based on Mrs. Demirchyan's own testimony.

2 THE COURT: Well, why isn't the petitioner contending  
3 that it was in the sense that it was a two-step process? That  
4 the 1997 birth certificate was presented, and because of its  
5 torn condition, it was then that -- and on the basis of the  
6 1997 certificate, that a new certificate was issued.

7 MS. CHEN: Yes, Your Honor.

8 THE COURT: I mean, why is that so inconsistent?

9 MS. CHEN: Your Honor, it's not inconsistent. The  
10 2000 birth certificate, which is Exhibit 108, which the court  
11 found inadmissible previously, I believe the court found it  
12 inadmissible based on testimony that had -- that petitioner's  
13 mother had already presented previously. She represented it  
14 today in the form of describing the circumstances under which  
15 she got the 2000 birth certificate reissued.

16 We believe that there's no reason to change the  
17 court's previous finding that the birth certificate was  
18 inadmissible. The new -- the information that she presented  
19 today does not change the fact that it is hearsay, that it's  
20 not a public record, so the government does believe that  
21 Exhibit 108 --

22 THE COURT: But we have to separate two evidentiary  
23 questions: One is whether the Exhibit 108 -- that's the 2000  
24 certified copy of the birth certificate -- is  
25 self-authenticating or whether it is admissible through some

1 other foundation involving circumstantial evidence. So in  
2 terms of it being self-authenticating, it isn't.

3 But the hearing was regarding whether she can  
4 establish a foundation through circumstantial evidence, and  
5 you're saying that even as a foundational matter, her testimony  
6 that she received the certificate, as she described, cannot be  
7 considered as a foundational matter.

8 MS. CHEN: Yes, Your Honor.

9 THE COURT: Why is that?

10 MS. CHEN: I believe, Your Honor, that the  
11 information contained in that record itself is still hearsay.  
12 The fact that the birth year says 1976, while it -- while she  
13 may have shown facts to prove that she had, in fact, gone to  
14 Armenia and received this document, the fact that she received  
15 the document itself does not attest to the veracity of the  
16 information contained on that birth certificate.

17 THE COURT: In other words, you're saying that even  
18 if it happened the way she described it, there's still a  
19 question as to whether the person who certified the birth  
20 certificate did that as an independent matter, that is, based  
21 upon records that existed within the ministry, or based upon  
22 something that was told or given to the authenticating person.

23 MS. CHEN: Yes, Your Honor.

24 THE COURT: But why couldn't the petitioner argue  
25 that when she presented the 1997 certificate, birth

1 certificate, Exhibit 109, that that's evidence that the  
2 ministry in 2000 recognized it as being authentic and just  
3 issued a new certificate with an authentication? If she's  
4 credited, wouldn't that be a foundation?

5 MS. CHEN: Your Honor, I think it would be a  
6 foundation, and they probably are arguing that, but the  
7 government's issue is that the 1997 certificate itself is not  
8 authenticated. And so what the -- we just don't know, under  
9 the circumstances, how the Armenian archives or office issued  
10 the 2000 birth certificate. In other words --

11 THE COURT: But there was testimony from this last --

12 MS. CHEN: Ms. Hovanisyan.

13 THE COURT: From Ms. Hovanisyan, H-o-v-a-n-i-s-y-a-n?

14 MS. CHEN: Yes, Your Honor.

15 THE COURT: She said that she recognized the stamp on  
16 the 1997 certificate, correct?

17 MS. CHEN: I believe she did, Your Honor.

18 THE COURT: So the 1997 certificate was a duplicate;  
19 is that right?

20 MS. CHEN: I believe so, Your Honor.

21 THE COURT: Because how else would that be in  
22 evidence? I mean, I thought she turned that in.

23 MS. CHEN: I believe the testimony, Your Honor, was  
24 that she took the original and they did take it and reissue the  
25 2000 one.

1 THE COURT: So which is the -- so what is it that  
2 Ms. Hovanisyan testified to? Was it the 1997 certificate or  
3 the 2000 certificate? I mean, are they the same?

4 MS. CHEN: Your Honor, my recollection is she  
5 testified that the 1997 one, all of the markings were  
6 consistent with what she believed would be on an Armenian birth  
7 certificate.

8 THE COURT: So the 2000 certification, does it -- is  
9 it the same as the 1997 birth certificate?

10 MS. CHEN: I don't believe so, Your Honor.

11 THE COURT: There are two different documents,  
12 correct?

13 MR. HOFFMAN: (Nodding head up and down)

14 THE COURT: So Ms. Hovanisyan, she would have had to  
15 have seen a copy of the 1997 certificate, not the original.

16 MS. CHEN: That's correct, Your Honor.

17 THE COURT: Correct?

18 MS. CHEN: Yes.

19 THE COURT: I see. All right.

20 MS. CHEN: Your Honor, I have nothing further.

21 MR. KURZBAN: Your Honor, may I just --

22 THE COURT: Yes, yes.

23 MR. KURZBAN: One is, I'd like to point out to Your  
24 Honor a -- I think a very significant case, and I apologize for  
25 not doing this before, *Garcia v. Portuondo*, 459 F. Supp. 2d

1 267. It's the Southern District of New York case in 2006.  
2 It's almost on -- directly on point on this issue of the  
3 document, only in the context of the Dominican Republic.

4 It says, "Any competent evidence probative of the  
5 fact that the documents were from a Dominican law enforcement  
6 agency likely would have sufficed. Upon hearing testimony that  
7 one of Garcia's friends or relatives retrieved the documents  
8 from a Dominican official, in a public office, where such  
9 documents are kept" -- and this was a jury trial -- "a  
10 reasonable juror could have concluded that the documents were  
11 authentic."

12 And then they quote later, "If a writing is claimed  
13 to be an official report or record of a public government  
14 agency, and is also proved to have come from the proper public  
15 office where such official papers are kept, it is generally  
16 agreed that this authenticates the offered document as  
17 general."

18 THE COURT: I'll look at the case certainly, but it  
19 does seem odd that a jury was making a determination regarding  
20 the authentication of a document because that almost always is  
21 a court question. So the case certainly has to be read  
22 carefully.

23 MR. KURZBAN: And, Your Honor, just two other quick  
24 points. First of all, Ms. Chen talked about the deposition  
25 that, as far as I know, is not in evidence, which is the

1 deposition of Susanna Demirchyan, and I'm not sure the  
2 interrogatories are in evidence, but even if the  
3 interrogatories --

4 THE COURT: I thought the interrogatories were in  
5 evidence, because I seem to recall, even at my prompting, that  
6 a foundation be laid for them, and I think she -- Ms. Susanna  
7 Demirchyan did say she signed the responses. So they're in  
8 evidence.

9 MR. KURZBAN: Yes.

10 THE COURT: The deposition, is that in evidence?

11 MS. CHEN: Your Honor, I believe petitioner signed  
12 the interrogatory responses, and I believe they were in  
13 evidence. Her -- Mrs. Demirchyan's deposition is not in  
14 evidence.

15 THE COURT: Then why can't that be received? I mean,  
16 did you -- unless you -- you want her to explain that?

17 MR. KURZBAN: Well, I mean, our position is simply  
18 this, Your Honor: First of all, with respect to the  
19 deposition, she can't use it in a closing argument when it was  
20 never in evidence and never received. You pointed out to her  
21 during the course of her cross-examining Susanna Demirchyan --  
22 and I know this is a bench trial -- but you pointed out to her  
23 that she really didn't impeach in the proper way. As you know,  
24 and as you pointed out, when you impeach someone, you say, you  
25 know, did you have a deposition on this day, did you ask this

1 question, did you give this answer, and so forth.

2 THE COURT: I agree with you that the usual format  
3 wasn't observed. I don't recall the -- Ms. Chen asking those  
4 questions, which were required unless there was a stipulation  
5 between the parties that the deposition could be received.  
6 There is no such stipulation.

7 MR. KURZBAN: No, there was no such stipulation --

8 THE COURT: Then I don't think I can consider her  
9 argument about any inconsistency with the deposition.

10 MR. KURZBAN: With respect to the interrogatories,  
11 Your Honor, the only thing I would point out is the  
12 interrogatory that they used was a compound interrogatory. Why  
13 no one objected to it, I have no idea. But if you look at the  
14 interrogatory, it asks about all the birth certificates at  
15 once. So when the answer comes down as an A, B, C, D, it's  
16 almost impossible to tell what Susanna Demirchyan's answering  
17 to. And I would just ask Your Honor, you know, to take a look  
18 at that, and as to whether or not it's impeachment of any kind.

19 Thank you, Your Honor.

20 MS. CHEN: Your Honor, just for clarity of record,  
21 it's actually petitioner's responses to interrogatories, not  
22 Susanna Demirchyan's.

23 THE COURT: Oh. And just let me ask you one final  
24 question, because this is sort of the overlay to the whole  
25 case, and this is not to infer that the court is disregarding

1 the explicit testimony and just painting the evidence with a  
2 broad brush.

3 But at the first cut, so to speak, it is a bit much  
4 to accept the petitioner's basic story and the story as  
5 regarding the certification of 2000, the -- no, no, strike  
6 that. I'm talking about the 1997 birth certificate.

7 Because understanding that Armenia is not a  
8 westernized country, and Armenia may be described by many as a  
9 third-world country, I think most people would describe it as  
10 an essentially poor, undeveloped third-world country. This is  
11 not to demean the culture or the people, but that's the fact.

12 And the looming question is why would the petitioner  
13 or his mother trust an unknown tourist -- unnamed tourist to  
14 bring such a valuable document to their possession from  
15 Armenia? What was to prevent them putting it in the mail or  
16 some other resource, and I must assume, notwithstanding the  
17 third-world nature of the country, there was some other  
18 resource. And it is -- and then to further compound that  
19 curiosity, it's in evidence that there was a duplicate of the  
20 1997 birth certificate.

21 So in the event that it was mailed or sent and  
22 somehow lost, they had a duplicate. And the contortions that  
23 are described, forgetting for the moment an individualized  
24 assessment of credibility, are troublesome because the basic  
25 story is so unbelievable.



1 MR. KURZBAN: Well, Your Honor --

2 THE COURT: I want to give you an opportunity to let  
3 you respond to that.

4 MR. KURZBAN: Right. And I have to tell you, I  
5 appreciate sincerely that you brought these two issues up.  
6 I've been an immigration lawyer for over 30 years, and I can  
7 tell you it is very common, and I would ask --

8 THE COURT: When you tell me that is your personal  
9 experience, I can't accept that. Now you're a witness and  
10 I'm -- you have to put your lawyer hat on. You can't tell me  
11 anecdotally.

12 MR. KURZBAN: Right. But I guess what I'm saying is  
13 I don't think Your Honor can, in all fairness to my client,  
14 speculate because a document was --

15 THE COURT: I'm not speculating. I want to make it  
16 clear that I'm not. I'm just saying that this is not a normal  
17 way of doing things under anyone's lifestyle, even in 1997,  
18 even understanding that there may be some differences in the  
19 way people do things in third-world countries.

20 I'm not saying, just for that reason, it couldn't  
21 have happened, but I have to point out that the beginnings of  
22 this story are difficult to accept.

23 MR. KURZBAN: And I appreciate that, Your Honor. I  
24 guess my view is I respectfully disagree that this actually is  
25 a common way in which people bring documents from third-world

1 countries, that when they're not in business, when it's not a  
2 professional company engaging in business, that it actually is  
3 the most common --

4 THE COURT: Let's even accept that that is -- what  
5 you say is so. The other matter that is troublesome is that  
6 the mother, Susanna, never testified that she was told who the  
7 person was who was going to bring it, when they were going to  
8 bring it, and even today, she testified that, notwithstanding  
9 what she claims to be a pretty good memory about things, she  
10 didn't remember whether the document was brought to her house  
11 or whether she met the person somewhere else. Now, you know,  
12 this is a pretty important thing.

13 MR. KURZBAN: Yes.

14 THE COURT: And she can't remember who the person  
15 was, whether they brought it to her house, or whether she met  
16 them at a coffee shop. So that further concerns me.

17 And I'm only saying these things so that you have a  
18 fair opportunity to give me an argument against my inclination.

19 MR. KURZBAN: Right. I would acknowledge to Your  
20 Honor that I think that is a hole in the evidence but I really  
21 believe it's a small one when you look at the total picture.  
22 That is, when you look at everyone else's evidence here, where  
23 they did say they got the document, they did say what they did  
24 with it, you would have to really disbelieve every single  
25 witness that you heard today, I think, in order to reach the

1 conclusion that that document was never obtained and was never  
2 brought to her.

3 THE COURT: Let me say this: I haven't reached a  
4 conclusion. I'm going to think about it, but it wouldn't be  
5 difficult to disbelieve every witness on the petitioner's  
6 behalf. It wouldn't be difficult.

7 All right. Matter will stand submitted.

8 MR. KURZBAN: Thank you, Your Honor.

9 (Proceedings concluded at 5:00 p.m.)

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C E R T I F I C A T E

I hereby certify that the foregoing is a true and  
correct transcript from the stenographic record of  
the proceedings in the foregoing matter.

November 23, 2012

/S/ \_\_\_\_\_

\_\_\_\_\_

Deborah K. Gackle  
Official Court Reporter  
CSR No. 7106

Date

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